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LOWELL WHITE
President, International Association of Insurance Counsel
1947-1948

President's Page

IN OUR struggle as lawyers to protect our clients' interests in insurance contracts, we are rendering a larger service to society as a whole. There is a sincere desire on the part of insurance companies to prepare and issue policies of insurance which protect the needs of the public who enter into these contracts. In the presentation of these contracts to courts for construction we must be vigorous in our insistence that these contracts receive a fair interpretation of the intent of the parties. Many courts overlook the cardinal fact that an insurance policy is a bi-lateral contract by which each party has certain obligations as well as rights. If we are lax in furthering our clients' rights we are not only failing in our first duty but are rendering a disservice to the public. There are too many leeches who persist in an effort to read things into a contract which are contrary to the terms as well as the intent of the parties.

If a half-hearted prosecution or defense results in a false, strained or unnatural interpretation of a policy contract, the public in the long run must suffer in that the probable result will be that many persons seeking to violate written contracts will feel more free to treat those sacred documents as mere scraps of paper. Such an atittude weakens the moral fiber of those who attempt to contract with others for services, materials or whatnot. The result will be retardation of business rather than much sought after expansion.

The result of this continuous struggle for equitable fulfillment of insurance contracts, is the International Association of Insurance Counsel. This organization has furnished us an interesting forum where we have been able to help each other do a better job for our clients and the public at large. Our association has developed into one of importance and we believe it is generally respected by the bar, the bench and the public.

Our Association can continue as one of influence only so long as we serve a worthwhile purpose. First, in the hope of achieving this purpose, we must be jealous of the caliber of our membership which is our most valuable asset. Each member should be experienced in the practice of insurance law in all or some of its phases. We hold ourselves out as being trained in the practice of insurance law. The public will wonder if this is a mere pose if we take members who have not proven themselves to be eligible as expert practitioners. We should not allow ourselves to be forced or cajoled into accepting or proposing for membership men who have not established themselves as insurance lawyers regardless of how excellent they may be in other fields and how fine their prospects.

Second, we have the Insurance Counsel Journal which is of established professional excellence. Unfortunately most of us take this magazine for granted. This Journal has been the labor of love of its only editor, George W. Yancey. However, his enormous burden cannot be carried by him alone. We have here a vehicle for the interchange of thoughts and ideas on legalistic subjects as related to insurance problems. The many fine articles which appear in each issue make our task easier when we are faced with the duty of preparing cases. This magazine would be of additional value if each member could contribute his thoughts and experiences for publication. At least we should all be on the alert to procure papers which would be interesting and instructive to our members.

The work on Committees can be productive of new ideas as well as the correlation of the past, present and future trends which are bound to be of tremendous help in the development of sound thinking and a better understanding of current problems.

Of course, our meetings are highlights of instruction and fortunately always happy and enjoyable affairs to which we all look forward.

The high ideals and purposes of this organization cannot be fulfilled by the officers alone. Let us all cooperate to promote the quality of the International Association of Insurance Counsel.

LOWELL WHITE,
President.

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1947-1948

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PAUL J. MCGOUGH, 1946-1947

PURPOSE

The purpose of this Association shall be to bring into close contact by association and communication lawyers, barristers and solicitors who are residents of the United States of America, or any of its possessions, or of the Dominion of Canada, or of the Republic of Cuba, or of the Republic of Mexico, who are actively engaged wholly or in part in practice of that branch of the law pertaining to the business of insurance in any of its branches, and to Insurance Companies; for the purpose of becoming more efficient in that particular branch of the legal profession, and to better protect and promote the interests of Insurance Companies authorized to do business in the United States or Dominion of Canada or in the Republic of Cuba, or in the Republic of Mexico; to encourage cordial intercourse among such lawyers, barristers and solicitors, and between them and Insurance Companies generally.

Report On The Monmouth Meeting

By Miller Manier
Associate Editor

We began arriving late Tuesday, September 2nd, and kept coming. The spacious, rambling and rather ornate structure, with beautiful grounds and the great Atlantic at its front door step, known as The Monmouth Hotel, Spring Lake, New Jersey, was full to overflowing with us by Thursday. A few took up residence in surrounding hotels, which were of equal quality and service (that is saying something).

The management was shocked at first, but expressed pleasure later, at what it had undertaken. Rooms with connecting baths added to the zest. Nobody at first knew who his bath companion would be but there were no final complaints. In the end there were 477 members and guests registered, the largest meeting we have ever held.

EXECUTIVE COMMITTEE MEETING

The officers and members of the Executive Committee went to work at a night meeting on Wednesday, September 3rd, while the rest of us, after an excellent dinner, began visiting rooms, exploring the hotel and nearly everybody ended up on the "lower deck" (remember we were breathing salt air), where drinks could be had with music and dancing for $1.32 (who cared after the second one if 20% was added as amusement tax. It helps pay for the war anyway).

OPENING SESSION

The opening session, which was scheduled for Thursday at 9:30 A. M., was at last convened at 10:30 A. M., after announcement by the President over the hotel loud speaker that any member who remained in the dining room any longer would be taken into custody by Tiny Gooch and Al Christovich and would be brought before the meeting for trial.

The welcoming address was made by Judge Haydn Proctor of Asbury Park, New Jersey, and the response was by Lester P. Dodd, of Detroit, Michigan.

Then followed the President's annual report which was filled with meat and was just what we would expect of that worthy gentleman.

Mr. E. A. Roberts, President of Fidelity Mutual Life Insurance Company of Philadelphia, Pennsylvania, gave an address entitled "The Brass Ring," which was followed by Wayne Ely on the subject of "Nuisances," given in Wayne's own inimitable style.

Reports were presented from the Executive Committee by Bill Baylor, Immediate Past President; by the Secretary, David I. McAlister; by the Treasurer, Robert M. Noll, and by George W. Yancey, Editor of the Journal.

Announcements were then in order from the Athletic and Entertainment Committees, presided over in general by J. Harry LaBrum of Philadelphia, Pennsylvania as General Chairman, who was ably assisted by Mrs. Oscar J. Brown of Syracuse, New York as Chairman of the Ladies' Entertainment Committee.

After hearing from John H. Anderson, Jr. of Raleigh, North Carolina, Chairman of Golf Committee, Mrs. L. Duncan Lloyd of Chicago, Illinois, Chairman of Ladies' Bridge Committee, and Mrs. Lester P. Dodd, of Detroit, Michigan, Chairman of Ladies' Golf Committee, all present knew that they had nothing to fear from boredom and a good time was in store for all.

Upon the appointment of the Nominating Committee by the President, the Thursday morning session adjourned.

NEW SYSTEM OF WORK AND PLAY

The Executive and Program Committees put in an innovation, which was appreciated by all. The work of the meeting, the papers and the open forums were all had in the mornings and the afternoons and nights were given over to companionship, recreation and entertainment.

After the adjournment of the opening session, there were a number of private cocktail parties followed by lunch, golf, surf bathing, bridge, rest or whatever the individual members and guests desired. The weather was perfect that day.

ANOTHER INNOVATION

Many new faces appeared at the meeting, which was a joy to all of us and consoled us somewhat for a few absences

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BIRMINGHAM, ALABAMA.

MILLER MANIER, *Associate Editor*
BAXTER BUILDING
NASHVILLE 3, TENNESSEE

The Journal welcomes contributions from members and friends, and publishes as many as space will permit. The articles published represent the opinions of the contributors only. Where Committee Reports have received official approval of the Executive Committee it will be so noted.

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which none of us relished. The Entertainment Committee had arranged to have each new member attending his first meeting to wear a not unattractive small red ribbon and everybody tried to join in to give the youngsters at the meeting a good time.

PRESIDENT'S RECEPTION

The President's reception was promptly under way on the "lower deck" of the Monmouth at 6:30 P. M., and Tiny Gooch and Al Christovich were not needed to direct them in. It was an excellent party with *hors doeuvres,* what you like from the bar, dancing, *et al* (a lawyer is writing this and many *et als* were thought up), all at the expense of the Association and you stay at homes. You had better come next time.

After dinner, back to the "lower deck" at our own expense for a good time until sleep overcame the individual members and guests.

NIGHT SWIMS

A group of hardy souls who had put the bar to bed and didn't feel the urge of their own downy couches, proceeded at about 4:00 A. M. (we have gotten to Friday morning, September 5th) to investigate the sobering effects of the salty force of the Atlantic. One member was heard to say he wished he had the Atlantic Ocean in his back yard for either late at night (or early in the morning). It beat Alka Selzer all to pieces. This night swimming became a habit, if two nights can form a habit, and was greatly enjoyed by all who tried it.

OPEN FORUMS

Friday morning, September 5th, was given over to three open forums, which gave the members a choice of "Practice and Procedure," under the Chairmanship of Clinton M. Horn of Cleveland, Ohio; "Automobile Law," under the Chairmanship of Fletcher B. Coleman, of Bloomington, Illinois; and "Aviation Insurance Law," under the Chairmanship of Forrest A. Betts of Los Angeles, California.

The Practice and Procedure Committee had as its subject "Oral Argument in the Appellate Court," which was broken down into (a) "Its Purpose" (the paper on this was given by William E. Knepper of Columbus, Ohio); (b) "Its Scope" (the paper on this was given by Joseph Hinshaw of Chicago, Illinois); (c) "Its Method" (the paper on this was given by Lionel P. Kristeller of Newark, New Jersey); and (d) "How to Handle Questions from the Bench" (the paper on this was given by Erwin W. Roemer of Chicago, Illinois).

The Automobile Law Committee had two papers. One was on "Interpretation of Drive Other Car and Other Insurance Provisions in Automobile Policies," which was delivered by Fletcher B. Coleman of Bloomington, Illinois. The second paper in this forum was "Medical Payment Coverage," which was presented by John A. Kluwin, of Milwaukee, Wisconsin.

The Aviation Insurance Law Committee forum also had two papers. The first was "State Aviation Legislation," which was delivered by Honorable Herzel H. E. Plaine, Office of Assistant Solicitor General, United States Department of Justice, Washington, D. C. The second paper was on the subject "Trespass and Nuisance as Related to Future Development of Aviation," which was delivered by our new President, Lowell White of Denver, Colorado. The discussion on this paper was led by E. D. Bronson of San Francisco, California.

This reporter attended the Automobile Law Committee forum and can testify that it was well attended, the papers were excellent, each paper was fully discussed by the members present and the whole forum was elucidating and interesting. He understands that the same was true of each of the other forums but being only one per-

son (and not Gaul), he could not be present in three places at once as much as he desired to be.

GOLF AND BRIDGE

Friday afternoon was given over to the Men's Golf Tournament and while the lesser halves were out divoting, swinging and trying to bring home to them one of the excellent prizes which the Association provided for the golf tournament, the ladies regaled themselves with bridge, for which there were also quite attractive prizes.

The Monmouth had an excellent putting green in close proximity to the hotel and the Golf Committee had arranged for prizes for the winners of a putting contest.

THE HUMBLE HUMBUGS

The Humble Humbugs gave their annual Mint Julep party at 6:30 P. M. on Friday immediately preceding the annual banquet. It was held on the "lower deck" of the Monmouth and included Mint Juleps and everything which goes with them. They also had an innovation which proved to be excellent and greatly added to the enjoyment of everyone, in that all members and guests in attendance were invited.

THE ANNUAL BANQUET

All in attendance were ready for the annual banquet which was held in the main dining room of the Monmouth immediately following the Humble Humbugs' Mint Julep party. It was a great occasion —good food, good fellowship, no speeches, dancing and fine professional entertainment.

Thereafter, many hit the "lower deck" again for dancing and entertainment. The old American game of politics began getting at fever heat and there was surf bathing in the early morning of Saturday.

SATURDAY MORNING SESSION

The Saturday morning session was well attended. Addresses were delivered by Charles T. Tucker, former Lt. Col., Third Service Command, of Washington, D. C., on the subject, "What the Communists Are Trying To Do To Us," and by Robert P. Hobson of Louisville, Kentucky on "Liability for Fire and Explosion Following Accident."

L. J. (Pat) Carey of Detroit, Michigan, Chairman of "The Time and Place of Next Convention Committee," announced that it looked as if our old stamping ground at the Greenbrier Hotel, White Sulphur Springs, West Virginia, is a near impossible and asked for a show of hands on a return engagement to the Monmouth Hotel. The service and accommodations at the Monmouth were enjoyed and appreciated by all and there was a large showing of hands for a return engagement.

Pat Carey then discussed the possibility of the next annual meeting being held in the far west at a time and place to enable the members to attend our meeting and also to attend the American Bar Association meeting to be held in Seattle, Washington in the early Fall of 1948. The show of hands gave a hardy approval to this proposal so it looks like "go west my son" in the early Fall of 1948.

The President announced that he had been handed a report by a special committee on the "Journal," of which Henry W. Nichols of New York City was the Chairman, which recommended that, at Editor Yancey's request, an associate editor of the Journal be appointed by the incoming Executive Committee. The President advised that this report would be handed to the incoming Executive Committee for action.

Lowell White of Denver, Colorado, reported for the special committee on "Proposed Amendments of By-laws" and his report was adopted and the by-laws were amended as per the proposals published in the July issue of the Journal.

The Chairmen of the Committee on Entertainment and the Golf Committee made their final reports and the golf prizes were distributed.

The Nominating Committee made its report and the results of the election were. Lowell White of Denver Colorado, President; John R. Kitch of Chicago, Illinois; J. Harry LaBrum of Philadelphia, Pennsylvania, and Stanley C. Morris, of Charleston, West Virginia, Vice-Presidents; and Milton A. Albert of Baltimore, Maryland; Wayne Ely of St. Louis, Missouri and Joseph A. Spray of Los Angeles, California, Executive Committeemen to fill the three-year term 1948-1950.

The new officers were introduced and the new President Lowell White made a short acceptance address.

The meeting was duly adjourned by the

new President, and everybody began rushing around and packing to go home to the worries, bothers and pleasures of their individual lives; but each had in his or her heart the joy of friendships, new or renewed, and the relaxation of four pleasant days.

If you haven't, you ought to try it some time. It was great.

NEWLY ELECTED OFFICERS

The Editors desire to introduce to you the officers elected at the Spring Lake meeting. Each newly elected officer was written with the request for a thumb nail sketch of his career. We know of no better way to present them than they presented themselves to us in their respective replies.

President

LOWELL WHITE, Equitable Building, Denver (2) Colorado. Born March 12, 1898, Greenville, Ohio. Education—Greenville, Ohio public schools, A.B. degree Ohio State University, LL.B. degree, University of Colorado, LL.M. degree, University of Denver. Admitted to Bar in 1924. General law practice in Denver since admission to the Bar. Married Laura Louise Clough on December 22, 1920—have two children, Patrica, now Mrs. Walter A. Steele, and Edger White, a student. Served in United States Army from 1917 to 1919, with one year overseas. Member of Sigma Chi and Phi Delta Phi fraternities, Executive Committee of International Association 1934 to 1936 and Vice-President of Association 1946-1947.

Vice-Presidents

JOHN RAYMOND KITCH, 105 South LaSalle Street, Chicago 3, Illinois. Born at Olney, Illinois, 1894; attended Litchfield High School and Carthage College; received LL.B. degree from Chicago Kent College of Law in 1921. Admitted to the Illinois Bar on April 5, 1921. Married Mary M. Wheeler and have three sons, Darwin Jacques, Frederick David and John Robert Kitch. Practiced law in the Chicago area from 1921 to 1927, when he became Trial Attorney for the Security Mutual Casualty Company, and was made its general counsel in 1941; Secretary and Treasurer of Security Mutual Casualty Company since 1942; elected Vice-President of the company in July 1947. Member of Insurance Section of the American Bar Association, Chicago Law Institute, Chicago Bar Association, Phi Alpha Delta Law Fraternity, University Club of Beverly Hills and Midlothian Country Club.

J. HARRY LABRUM, Packard Building, Philadelphia 2, Pennsylvania. Born August 9, 1897, Philadelphia, Pennsylvania. Married Catherine Agatha Foley. One daughter, Agatha Mary (Mrs. Walter L. Taylor). Graduate of Georgetown University Law Schol, LL.B. 1925; post graduate, Cambridge University, England. Member of District of Columbia (1925) and Pennsylvania (1927) Bars. Member of Philadelphia, Pennsylvania and American Bar Associations. Chairman, Section of Insurance Law, American Bar Association (1946-47). Member of firm of Conlen, LaBrum and Beechwood. Special Deputy Attorney General for Commonwealth of Pennsylvania (1936-37). Chairman, Special Committee on River Pollution, Chamber of Commerce and Board of Trade of Philadelphia (1946-47). Phi Alpha Delta Law Fraternity (Supreme Justice 1938-46) Honorary Vice Consul of Iceland. Colonel, United States Army Signal Corps (1942-45). Received award of Legion of Merit and Order of The Crown of Italy. Director, Army Signal Association; member of American Legion, Military Order of Foreign Wars of the United States, and Reserve Officers Association of United States, Philadelphia Chapter. Member of Union League of Philadelphia, University Club, Racquet Club, Down Town Club, Philadelphia Country Club, Lawyers' Club, Foreign Traders Association, Port of Philadelphia Maritime Society, Kiwanis Club of Philadelphia, Traffic Club, Association of Practitioners before Interstate Commerce Commission; India House, New York City; National Press Club, Washington, D. C.; New Jersey Society of Pennsylvania.

STANLEY C. MORRIS, P. O. Box 1588, Charleston 26, West Virginia. Born Marion County, West Virginia March 7, 1893; admitted to Bar 1921, West Virginia. Preparatory education, Broaddus Institute, Philippi, West Virginia; Marietta College, Ohio (graduate, A.B., *magna cum laude*); legal education, University of Wisconsin; West Virginia University (LL.B.). Member, Delta Upsilon, Phi Beta Kappa, Order of Coif, Phi Delta Phi, Bar Association of the City of Charleston, West Virginia State and American Bar Associations, Lawyers' Club of New York, Committee on Aviation Insurance Law, Insurance Section of American Bar Association, and firm of Steptoe & Johnson, having offices in Clarksburg and Charleston, West Virginia.

Executive Committee—1947-50

MILTON ANDREW ALBERT, 227 St. Paul Street, Baltimore 3, Maryland. Born August 29, 1900 at Baltimore, Maryland. Graduated with LL.B. degree from University of Maryland in 1923. Admitted to Maryland Bar in 1923. Wife: Helen K. Albert. Have been associated with New Amsterdam Casualty Company for past 30 years. Assistant Secretary and Attorney—Casualty Claim Department, Home Office. Member of Masonic Order, Scottish Rite, Shrine, Engineers Club of Baltimore, Casualty and Surety Club, Gamma Eta Gamma Legal Fraternity, Baltimore City, Maryland State and American Bar Associations.

WAYNE ELY, Commerce Building, St. Louis 2, Missouri. Born April 30, 1891 at Kennett, Missouri; academic education Westminster College 1906-1908; legal education Washington & Lee University, 1911; Missouri University, 1913. Admitted to Bar December 1913. Law firm Ely & Ely, consisting of Wayne Ely, Richard H. Ely, Robert C. Ely and James C. Jennings. Married Amy Nelle Henderson of Jackson, Missouri on June 30, 1915. Children—Betty Jean (Hausner), Richard H. Ely, Robert C. Ely and Miriam Ely. Practiced law in Kennett, Missouri from 1913 to 1920; Assistant United States Attorney for the Eastern Division of Missouri in 1920; moved to St. Louis in 1920; Special Assistant Attorney General of the State of Missouri in 1926. Member of Sigma Nu and Theta Lambda Phi Fraternities, Algonquin Golf Club and Missouri Athletic Club.

JOSEPH A. SPRAY, 727 West Seventh Street, Los Angeles 14, California. Born in El Reno, Oklahoma, January 31, 1899. Graduate of Tempe Normal, Tempe, Arizona, 1918; graduate of University of California, with LL.B. degree and admitted to practice in 1923. Member of firm of Spray, Gould, Duckett & Bowers. Wife: Loeta Spray; two sons, Joe Spray, Jr. and Terry Spray. Member of Jonathan Club and Phi Alpha Delta.

Treasurer

FORREST S. SMITH, One Exchange Place, Jersey City 2, New Jersey. Born Jersey City, New Jersey, January 3, 1904. Education: A.B. degree from Princeton University, 1925, LL.B., Harvard Law School, 1928. Admitted to Bar 1929, firm Edwards, Smith & Dawson. Wife: Harriet C. Smith; one daughter, Mary Ann Smith, aged 13. Member Lawyers' Club, New York City, and Rumson Country Club, Rumson, New Jersey and American, New Jersey State, Hudson and Monmouth County Bar Associations. My father, Edwin F. Smith, who died in 1941, was the head of the firm and as you may recall was also a member of The International Association of Insurance Counsel.

DAVID IRONS MCALISTER, 63 South Main Street, Washington, Pennsylvania. Born February 21, 1896, in McDonald, Pennsylvania. The name was a foregone conclusion because I was the first grandson on either side of the house and both grandfathers were named David and, following the old Presbyterian custom, the middle name was that of the family name of the preacher in the hope that I would take up the ministry. After graduating from Washington High School I attended Washington and Jefferson College, graduating in 1918 and at the same time earning my Master's Degree which was not conferred until two years later. At that time I intended to be a physics professor but; having met a large number of them in the Science and Research Division of Aviation, in which I served in World War I, I entered Pitt Law School where I graduated in 1922. I was admitted to the Bar that same year, started to practice and am still sitting in the same office that I started in in September of 1922. My first two partners, Mr. Blanchard G. Hughes and former Pennsylvania Supreme Court Justice, Howard W. Hughes, are both deceased, and my other partner, Mr. Wray G. Zelt, Jr., is practicing with his brother, and I am at present by myself. I was married October 5, 1928, and have one daughter, Patricia, now seventeen, who is a Freshman at Duke University.

ELECTION OF MILLER MANIER ASSOCIATE EDITOR

BY GEORGE W. YANCEY, *Editor*

I am very happy to announce through the pages of the Journal that the Executive Committee of your Association at its last meeting elected Miller Manier, of Nashville, Tennessee, as Associate Editor of the Journal. Miller Manier needs no introduction to this Association, as he has been active in the affairs of the Association for many years. I feel that due to his experience and his natural talents you will in due course note an improvement in the Journal.

Miller Manier was born in Nashville, Tennessee on January 15, 1897. He re-

ceived his education in the public schools of Nashville, attended Wallace University School, and received his B.S. and LL.B. degrees from Vanderbilt University of Nashville. He is a member of the American Bar Association, the State Bar of Tennessee, and the Nashville Bar Association.

PROCEEDINGS AND ADDRESSES OF OPEN FORUMS

Due to limited space in the October Journal your Editors found it impracticable to publish in this issue the open forum proceedings and addresses delivered at our Monmouth meeting. The proceedings and addresses are both interesting and informative, and they will appear in the January 1948 issue of the Journal.

Those of you who did not have the opportunity of attending these open forums will, I am sure, await with interest the arrival of the January Journal. The forum programs were as follows:

I.

PRACTICE AND PROCEDURE

CLINTON M. HORN *of Cleveland, Ohio, Chairman, presiding.*

"Oral Argument in the Appellate Court."

(a) Its Purpose—William E. Knepper of Columbus, Ohio.

(b) Its Scope—Joseph Hinshaw of Chicago, Illinois.

(c) Its Method—Lionel P. Kristeller of Newark, New Jersey.

(d) How to Handle Questions from the Bench—Erwin W. Roemer of Chicago, Illinois.

II.

AUTOMOBILE LAW COMMITTEE

FLETCHER B. COLEMAN *of Bloomington, Illinois, Chairman, presiding*

(a) "Interpretation of Drive Other Car and Other Insurance Provisions in Automobile Policy" — Fletcher B. Coleman, Bloomington, Illinois.

(b) "Medical Payment Coverage"—John A. Kluwin, Milwaukee, Wisconsin.

III

AVIATION INSURANCE LAW COMMITTEE

FORREST ARTHUR BETTS *of Los Angeles, California, Chairman, presiding*

(a) "State Aviation Legislation"—Honorable Herzel H. E. Plaine, Office of Assistant Solicitor General, United States Department of Justice, Washington, D. C.

(b) "Trespass and Nuisance as Related to Future Development of Aviation" —Lowell White, Denver, Colorado.

Discussion Leader: E. D. Bronson, San Francisco, California.

PROCEEDINGS
Annual Convention International Association Of Insurance Counsel

THE MONMOUTH
SPRING LAKE, NEW JERSEY
September 4-6, 1947

THE General Session held on Thursday, September 4, 1947, in the Ball Room of the Monmouth Hotel, Spring Lake, New Jersey, at 9:30 o'clock in the forenoon, President Paul J. McGough (Minneapolis, Minn.) presiding.

SECRETARY DAVID I. McALISTER: Ladies and gentlemen, will you please come to order.

For many years we have had the practice of presenting the gavel to the retiring president. A year ago I said they never gave him his gavel until he was ready to pack his suitcase and go home. I wanted to change that and give him a gavel to keep and with which he would preside over the convention of which he was president.

With no further ado, Mr. President, I wish to present to you, from the Association, this gavel, the symbol of your authority to preside over this convention. (Applause).

PRESIDENT McGOUGH: Thank you, Mr. Secretary. I appreciate the use of this gavel so early in the proceedings, and I will put it to work right now.

The Twentieth Annual Meeting of the International Association of Insurance Counsel will now come to order.

The first item on the program calls for roll call and reading of the minutes. The Chair will entertain a motion.

MR. ROYCE G. ROWE (Chicago, Illinois): Mr. President, I move we dispense with the roll call and the reading of the minutes.

(There was a chorus of "Seconded.")

PRESIDENT McGOUGH: All in favor signify by saying "Aye."

(There was a chorus of "Ayes.")

PRESIDENT McGOUGH: Ladies and gentlemen, we are here as guests of the State of New Jersey. It is my pleasure to present to the convention a son of New Jersey, an eminent jurist of this state, one whom we are proud to know and greet. He will say a few words to us this morning on behalf of the State of New Jersey.

I give you Judge Haydn Proctor. (Applause).

(Judge Haydn Proctor of Asbury Park. New Jersey, thereupon read his "Welcoming Address" to the General Session).

Judge Proctor's address will be found on page 217 of the Journal.

JUDGE HAYDN PROCTOR: Thank you. (Applause).

PRESIDENT McGOUGH: Thank you very much, Judge Proctor. We already feel at home at the Monmouth; and now that our members are in a tax-free state, I am sure we will stay a long, long time.

It seems to me only fitting and proper that the "Response" came from the State of Michigan. I take great pleasure in presenting Mr. Lester P. Dodd. (Applause).

MR. LESTER P. DODD (Detroit, Michigan): Mr. President, Judge Proctor and members and guests of the Association: When our good friend, Paul McGough, called me a few weeks ago and asked me to make this Response, I must confess that I was highly flattered. But I must also confess that I perhaps accepted without proper appreciation of the responsibility that this job entails. I assumed rather casually, that my humble part in this program could be performed acceptably, if not brilliantly, by a few words of thanks and appreciation for the welcome, following which I could, in accordance with my usual custom, repair to the golf course and consider that the business of the convention had been completed. (Laughter).

But, having the lawyer's perhaps too healthy respect for the President, it occurred to me that I might better conform to what was expected of me under the circumstances.

If I were to look back at the record and get an idea of the customary length and general tenor of such responses—of course, some of my friends may suggest

that if I had attended the meetings a little more religiously at previous conventions, I would not have had to go back to the record. (Laughter). Nevertheless, I did so and I found, somewhat to my surprise, that the forensic fireworks that are apparently expected under the rather receptive title "Response" to an "Address of Welcome" are something!

I found that if custom were to be observed in these things, I was expected to make an address that touched on problems of world-wide significance and that, above all, such a thing could neither be simple nor brief. I observed in particular that there were two themes that seemed necessary to be dwelt on in one of these talks; the first, or major theme, being to assure the welcomer– (in this case Judge Proctor) that his state (in this case the State of New Jersey) is the garden spot of all creation (laughter); that its skies are bluer; its air balmier; its grass greener; its horses faster; its whiskey mellower; its men more virile; its women more beautiful than any of its sister states can boast. (Laughter).

There is a secondary theme that is customary in these things–and again, those of you who have attended meetings probably are more familiar with it–and that is a more or less extended development of the central idea that lawyers, and especially insurance lawyers, are vitally necessary to the scheme of things, but are generally under-appreciated. (Laughter). And that their collective lot in life would be and should be greatly improved by more intelligent judges, more sympathetic juries, and more liberal home offices. (Laughter).

I give you, Judge Proctor, the result of my research in this field so that you will know that when I fail this morning to give you a traditional response of welcome, that it is not through ignorance of what should be done but it is purely a matter of limitations of the speaker.

This morning I am not going to compare the great State of New Jersey to Utopia; I am not going to endow its judges, even though we have one with us, with the wisdom of Solomon; I am not going to endow its women with the beauty of Cleopatra, although there again I could do so without perhaps stretching things too far. (Laughter). In fact, Judge Proctor, I am not even going to comment on the well known purity of the New Jersey politician nor its well-advertised freedom from mosquitoes. I want you to understand that in refraining from following custom in this respect, I do so not because I entertain any doubt whatsoever as to the truth and accuracy with which I might make those statements, but purely because I lack the eloquence to say them as they should be said.

I am simply going to say what I think I can say, if not with eloquence, at least with the utmost of sincerity: we appreciate your welcome; we thank you for it; we are glad to be here.

I think perhaps I might say with one note of seriousness that our real response to your welcome here, of course, will have to be in deeds and not in words. We can only truly justify our welcome here if we accomplish, while here, some worthwhile purpose.

I am sure that under the leadership of our able president and the remainder of our official family we shall do just that.

We have enjoyed, and are enjoying, our stay here. In spite of my earlier facetiousness, the State of New Jersey is a truly great state–one that is rich in material things, rich in tradition and, above all, as we have found, rich in hospitality. We truly appreciate an opportunity to share in that hospitality and hope that you may have us here again.

Thank you very much. (Applause).

PRESIDENT McGOUGH: Thank you, Mr. Dodd.

When I called Mr. Dodd some time ago he asked what time he would have to speak. I said "Just forget about that. You are not going to have a chance to play golf before 12 o'clock." Knowing that there would be no golf matches before 12 o'clock, Mr. Dodd said "Well, I will be glad to come in and say a few words."

The Chair will now ask Vice President John Barton to take the Chair.

VICE-PRESIDENT JOHN L. BARTON (Omaha, Nebraska): Ladies and gentlemen and guests: I think it is traditional in the Association that at this point in the proceeding we hear the President's report. Without further ado I give you your illustrious President, Paul J. McGough. (Applause).

(President McGough thereupon read his "Report of the President" to the General Session).

President McGough's address will be found on page 234 of the Journal.

PRESIDENT McGOUGH: Thank you. (Applause).

Everyone is proud of the state from which he hails, especially if he hails from a certain midwestern state whose name I have been warned not to mention. The next speaker hails from that very state; he was raised in the City of Duluth, and after graduating from college he returned to that great midwestern state where he became general counsel of Minnesota Mutual Life Insurance Company. He does not know exactly in what year he joined our Association, but he said in 1927 he was at the first convention in Toronto. So you can imagine how long ago he joined. He attended practically all of the meetings until he was elected president of the Fidelity Mutual Life Insurance Company of Philadelphia.

Ladies and gentlemen, I take great pleasure in presenting to you our old friend, Bob Roberts. (Applause).

MR. E. A. ROBERTS (Philadelphia, Pennsylvania): Mr. President, ladies and gentlemen: This is the first time, as a teetotaler, I have been put on the first day's program. Usually I have had to hold myself in check for the last day when I was scheduled to make an appearance. But it was pleasing that I could be found in the company of another teetotaler like Wayne Ely last night; and we spent a very pleasant time with the Gideon Bible. (Laughter).

I was thinking of this Address of Welcome, and it was outdone, if at all, by the one we had at West Virginia by the then Governor. Do you remember that one? I was a little drowsy here this morning and I heard something in the Response about "Utopia" and "Cleopatra," and I pinched myself to find myself in this august body.

Nevertheless, I had better push along with this, because you seem to have a pretty crowded program.

(Mr. Roberts thereupon read to the General Session the paper entitled "The Brass Ring.") (Applause).

Mr. Roberts' address will be found on page 218 of the Journal.

PRESIDENT McGOUGH: Thank you very, very much, Bob Roberts. We want you to come back at each convention and continue the splendid times and renew the old acquaintances that have been going on for the last twenty years. Do come back often, Bob Roberts.

We are honored here today by having many new members with us. The new members will kindly remain standing after their names are called.

SECRETARY McALISTER: President McGough, in the interest of saving time, I think I will make the Secretary's report first.

The total enrollment that we had after the 1946 convention was 1,391. We have received since that time 91 new members—that is, at the time this original mimeographed report was prepared—giving a total of 1,482. There have been twenty-five resignations in the past year and five were dropped for non-payment of dues, and there were twenty-seven deaths in the Association in the past year since the convention at Galen Hall at Wernersville. This gives us a membership of 1,425.

Last night, at the Executive Committee meeting, members who had applied for membership and were balloted upon amounted to twenty-six who were elected, giving us at the present time a total of 1,451 members. The twenty-six who were elected were all elected as regular members, because since the Amendment to the By-Laws abolishing the associate membership, we have not accepted any applications for associate membership. There are 1,057 members plus the twenty-six elected last night, or 1,083; 358 associate members and ten members who are still in the service, comprising a total of 1,451 members.

(Secretary McAlister thereupon read the names of the new members). (Applause).

PRESIDENT McGOUGH: Does that complete the Secretary's Report also?

SECRETARY McALISTER: That completes the Secretary's Report.

PRESIDENT McGOUGH: Between the years of 1920 and 1932 there were three presidents. The fourth president of the Association, who served in the years 1932 *to* 1934, *was George W. Yancey*. The fifth is *Walter R. Mayne, from* 1934 *to* 1935. The sixth president of our Association is *J. Roy Dickie of Pittsburgh,* 1935 *and* 1936. The seventh is *Judge Cresman* who is incapacitated. The eighth is *P. E. Reeder* of Kansas City. The ninth, *Milo H. Crawford,* 1938 *to* 1939.

I have a wire here from the tenth president, *Jerry Hayes* of Milwaukee: "Best wishes for a successful convention. I am greatly disappointed not being able to attend the meeting."

The eleventh president, *Oscar J. Brown,* 1940 *to* 1941. The twelfth is *Willis Smith,* 1941 *to* 1943. I do not know if there is anything unlucky in being the thirteenth president of this Association, but it happens to be the gentleman from Mississippi, *Pat H. Eager,* 1933 *and* 1934. The fourteenth is *F. B. Baylor,* 1944 *to* 1946.

The Chair has no idea as to what will be covered by the next speaker but feels that as long as we are living in a free country, we are entitled to freedom of speech. Ladies and gentlemen, hold on to your chairs and listen to the next speaker, Wayne Ely of St. Louis, and his address: "Nuisances."

(Mr. Ely thereupon read to the General Session his prepared address, "Nuisances.")

Mr. Ely's address will be found on page 222 of the Journal.

MR. ELY: Thank you very much. (Applause).

PRESIDENT McGOUGH: Thank you very much, Wayne Ely.

The next item on our program is the Report of the Executive Committee by Past President Baylor.

PAST PRESIDENT F. B. BAYLOR (Lincoln, Nebraska): I believe that it would meet with the approval of the members if this part of the program were eliminated.

PRESIDENT McGOUGH: Does the membership so desire?

(A chorus of "Ayes").

PRESIDENT McGOUGH: Your wishes are granted. Thank you.

Before calling on Mr. Noll, I want to say to you that Bob Noll has served this Association for many, many years. He was on the Executive Committee ten years ago and he has been the Treasurer for seven years. I do not know what there is about a service of seven years, or Mr. Yancey's service of fourteen years, or just why it is, but after Mr. Yancey asked if arrangements could be made so that he could be relieved of his duties, Mr. Bob Noll, after years of faithful service, made a similar request. We have tried to talk it out with Bob, and he insists that this is his last year as Treasurer. We are very, very sorry to hear that and want to thank him for his years of faithful service to the Association.

I will now call on Bob Noll for the Treasurer's Report. (Applause).

TREASURER ROBERT M. NOLL (Marietta, Ohio): Mr. President, members of the Association: You have entrusted to me for the past seven years the handling of your money. I consider it a great honor. I find the task very difficult due to lack of good office help, necessitating my making many of the entries. That is my reason for asking that you do not consider me a candidate for further service to you.

My report is broken down. It is very lengthy. I have made this a practice while being your Treasurer to show all the receipts and disbursements in itemized form, and I submit that to the Executive Committee and to the Finance Committee.

My books were audited this year by Ernst & Ernst, and I believe if I read to you their report of that audit it will bring to you the report of our financial position.

"August 1, 1947

"Mr. Kenneth P. Grubb, Chairman of the Finance Committee, International Association of Insurance Counsel, Milwaukee, Wisconsin.

"We have examined the statements of each receipt and disbursement of the International Association of Insurance Counsel for the year ending July 31, 1947. In connection therewith and other supporting evidence by methods and to the extent we deemed appropriate, a summary of the funds of the Association at July 31, 1947 follows:"

(Mr. Noll thereupon read to the General Session the Report of the Treasurer).

TREASURER NOLL: Again, ladies and gentlemen, I thank you for the honor of having served you as treasurer.

Mr. President, I move that the report which has been signed by the Finance Committee and audited be approved.

(Chorus of "Seconded.")

PRESIDENT McGOUGH: Moved and seconded that the Treasurer's Report be accepted. Is there any discussion?

(No response). All in favor signify by saying "Aye."

(Chorus of "Ayes").

PRESIDENT McGOUGH: Contrary? (No response).

Filed. (Applause).

We are now down to item 11, Report of the Editor, Mr. Yancey. (Applause).

MR. GEORGE W. YANCEY: Mr. President, members of the Association and visitors: I am happy to appear before you

this morning, although in some respects I am somewhat sad. I have been an active officer of this Association since 1928, in one capacity or another. I attended the meeting of the Association at Old Point Comfort. My friend, Roberts, beat me by one year in going to Toronto, at which time, by the way, the name of the Association was changed from The General Counsel Association to International Association of Insurance Counsel.

I had planned to tell you something of the history of this Association but time will not permit.

At this time I want to say to you how much I appreciate the cooperation which I have had from the membership, from the present Executive Committee and past committees, and your President, in my attempt to give you a worth-while Journal. I deeply appreciate, President McGough, what you had to say about the Journal and about me. I admit all the things that he has said (laughter); I admit that the Journal is an outstanding paper.

There is one thing, President McGough, which I must differ with you about, namely, that I am tired. I am not tired in the service of this organization and I am not a tired old man. (Laughter).

I asked the Executive Committee at their mid-winter meeting to cast about to find someone to take on this job. I did so for two reasons: one, I felt that the Journal, which is very near and dear to me, should have a new editor, should have new ideas, and that you should have a better Journal. It is true that although I am not as old as some other fellows that I see around here, I found, as an active trial lawyer and a man who has to handle a lot of office work, that the burden was quite heavy and I was afraid that I wasn't giving it the time that it deserved. So I have asked the Executive Committee to cast about to find a successor, and I told the Committee that they can count on me at any time for any assistance which I may be able to give to my successor.

I want to thank each of you. (Applause).

PRESIDENT McGOUGH: Thank you, Mr. Yancey.

In connection with this problem of just how we will continue on with the Journal and just who will help George Yancey or eventually take over the Journal, I would like to just name the committee that has been appointed and has been working on that. I am going to ask that committee, as I call their names, to kindly stand up.

The chairman is Henry Nichols of New York; another member is Wayne Stichter of Toledo; another one is Clarence Heyl of Peoria.

At this time, I am going to ask Wayne Stichter, who is in charge of the Open Forums, to kindly make a few remarks about what will occur tomorrow.

MR. STICHTER: Mr. President, ladies and gentlemen: The President has already called your attention to page 6 of the program for tomorrow. There will be no general session as usual. There will simply be the three open forums, as follows:

The Committee on Practice and Procedure, headed by Clinton M. Horn of Cleveland, Ohio, will have a round-table discussion in the Play Room which is just off the lobby on this floor.

The Automobile Insurance Law Committee, headed by Fletcher B. Coleman of Bloomington, Illinois, will hold its round-table discussion in the Grille Room, one floor down.

The Aviation Insurance Law Committee, headed by Forrest Arthur Betts of Los Angeles, will hold its round-table discussion in this room.

PRESIDENT McGOUGH: The chairman of the Nominating Committee is from the State of Mississippi. The chairman is the thirteenth president of the Association. Will Pat Eager please step forward. (Applause).

The next member is a man who has served on the Executive Committee. He is from Baltimore. Will Tom Bartlett please come forward? He is from the Maryland Casualty Company. (Applause).

The next member is from Boston, Frank Marryott. Please come forward. (Applause).

The fourth member is a general practitioner from the State of Michigan. Will Denis McGinn please come forward. (Applause).

I have no idea how this committee will get along. I imagine they will work more hours. In the event that they will need to work long hours, I am sure that they will do so. I do not know that they will need a sergeant-at-arms, but the next member is from the State of Texas, called "Tiny" Gooch. (Applause).

Will the five members please stand up so that every one will know who you are

and who is the chairman of the committee. (Applause).

Will the chairman make some announcement as to the time of the meeting and the place.

MR. PAT EAGER, JR. (Jackson, Mississippi): Mr. McGough's reminder sort of reminds me about these companies who send you a notice on the day of trial.

There will be no afternoon meetings. (Laughter).

The meeting will be in the Brokerage Office. It is on the ground floor. We will meet about 9 o'clock this evening in the Brokerage room.

Let me say this to you men, please. This committee, of course—I know I speak for all of them—would like to express our appreciation of the confidence shown in us by our appointment by the President. But this is the meanest job in the world. I know. (Laughter).

I almost send flowers to a fellow I appointed as chairman of this committee when I named him. I just felt that he was entitled to it. (Laughter).

PRESIDENT McGOUGH: You will get yours this afternoon. (Laughter).

MR. EAGER: We cannot function without your help. This committee wants to accurately and intelligently reflect the views of the majority of those in attendance here. We cannot do it unless you come to these meetings that we will hold beginning at 9 o'clock this evening. Come in there and unburden your souls and tell us about the men you have in mind for these respective offices.

We are not going to meet tomorrow in general session. I would say we should be in session again in the morning from 9:30. We will meet again in the morning at that same office at 9:30. But as many of you as can, come to this meeting tonight and give us the benefit of your good judgment.

Each solicitor will be admitted for a private conference and the committee will be in executive session. And it won't be like Wayne Ely—You can come in and say what you please about these "guys" and we shall treat it with the utmost confidence.

Thank you. (Laughter and applause).

PRESIDENT McGOUGH: The announcements from the various committee chairmen. Mr. LaBrum, please.

I want to say that here is the man who has done a lot of work and he has done an excellent job here. (Applause).

MR. J. HARRY LaBRUM (Philadelphia, Pennsylvania): The Entertainment Committee has planned, I believe, an extravaganza for you tomorrow evening. I hope you all remain, because we are importing three shows from Broadway—three acts from Broadway which have played in the various theatres there, and I am sure that they are outstanding and that you will thoroughly enjoy the picture.

Tonight the President's reception will be held at 6:30 in the Grille. Now, you know, like other receptions, you can order whatever you like. That means Scotch, rye, gin, cocktails, or anything else that you want. There will be hors d'oeuvres served in connection with the cocktails.

But we want everybody there promptly at 6:30 because there will be a reception line and we would like to have the members, with their ladies, pass through the reception line and say "Hello" to the officers and the Executive Committee. Joy will not be unrefined but unconfined. (Laughter).

Tomorrow night, the annual Mint Julep will be held in the Grille. Every member, together with his lady, is invited to attend that party. The hors d'oeuvres will be served in connection with the mint juleps and, again, there will be no limit. We hope that everyone will report to the dining room no later than 8:30 because we have a long show.

There will be dancing during dining, and we want to give the waiters and waitresses a break so that they can get out of the dining room somewhere around 11 o'clock.

A bar will be set up right outside the dining room and drinks will be served during and after the dinner. We urge everybody to be on time so that we may have no difficulty in getting the boys and girls away, and serving breakfast promptly at 9:30 on Saturday morning, so that we can have our concluding meeting.

Thank you ever so much. (Applause).

I might say, as far as dress is concerned, you can wear dinner clothes or come informally, as it suits your convenience.

PRESIDENT McGOUGH: Mrs. Oscar J. Brown of Syracuse, will you please stand up. Mrs. Brown is the chairman of the Ladies' Entertainment Committee.

Are there any additional remarks to make, Mrs. Brown?

MRS. OSCAR J. BROWN (Syracuse, New York): We are having a bridge party this afternoon. For the next afternoon we have not provided anything. We have the tables at any time here, and if there should happen to be a group who wish to play, and if the committee can be of any service to you, we would certainly be willing to help. (Applause).

PRESIDENT McGOUGH: Thank you, Mrs. Brown.

Will John Anderson, Chairman of the Golf Committee, please come forward.

MR. JOHN H. ANDERSON, JR. (Raleigh, North Carolina): Mr. President, ladies and gentlemen: We have already posted on the curtain behind the prizes which are now on a table in the lobby, a brief announcement of the plans for the golf tournament tomorrow afternoon. So my announcement here will be very brief.

The tournament, as you have heard, will be held tomorrow afternoon, after the Open Forum meetings are concluded. I appreciate the courtesy and the cooperation of the Program Committee in arranging affairs so that they will not interfere with the golf tournament. And certainly we do not want to interfere with the fine program that Mr. Stichter has arranged for you.

The tournament will be played on either of two courses, the Homestead Club Course, for which the fees will be $2 for the tournament, or on the Spring Lake Golf and Country Club, for which the fees will be $4.

We have arranged some prizes which we have tried to make the money go as far as we could without making too much of a show. Mr. Dave McAlister suggested we might make a bigger show by just getting a bunch of rice and a few gallons of water. We made it go as far as we could.

Those prizes will be awarded on the basis of three groups: under 45, 45 to 55, 55 and over. Those age groups will be competing for first and second low gross. We will have a grand gross prize for whoever has the lowest gross score. We have ten low net prizes which are all on the table. The lowest scores will be figured on an automatic handicapping basis. You will not know exactly how that handicap is to be arrived at, but it will be the same system that has been used for the past ten years. The committee members will not know which holes are selected for your handicaps, either.

Of course, we undertook to buy what we of the committee thought was of most value to the players. Those net prizes will be awarded, I hope, to the players who have scores of 120. They will have just as good a chance to win a prize as those who shoot 72 on the course, if there are any.

We hope we will have a big turn-out. The green fees will be paid at the course by the individual player. (Laughter).

All you will have to do is to get over to either of the courses that you want to play on and arrange your own foursomes.

We have cards at the table where the prizes are which you could sign up for either course that you want to play. I hope that many of you will sign up and indicate your choice so that we could advise the pro at the respective courses how many to expect to play there.

Transportation will be furnished mostly by the individual private cars of the members. There will be cabs available at the door. The charge will be $1.50 per car, with as many as can get in the car. I think they presently charge 50 cents a person to get over to either of the courses. If those cars are not sufficient, just ask the bell captain to call a cab for you as there are plenty available.

You do not have to indicate your exact age when you turn in your score card to be qualified for these prizes. Just indicate which group you are in. (Laughter).

Sink all your puts for birdies and hole them out. There will be awards for birdies.

In addition to the tournament, we are going to have a putting contest on this very nice putting green by the hotel. It has just been cut. We'll have putters there. Bring your own putter if you want to. Those who do not participate in the tournament might want to participate in the putting contest. We hope there will be a lot of you who may not want to go out and play golf—it has been a long time since you played—you can go out and try your skill at the putting. There will be two pretty nice prizes for that contest.

Thank you. (Applause).

MR. ANDERSON: Mr. President, the putting contest will be held tomorrow afternoon any time after the Open Forum meetings are over. You can compete either before you play in the tournament or afterwards, or any time after dinner.

PRESIDENT McGOUGH: Mrs. L. Duncan Lloyd of Chicago, Chairman of the Ladies' Bridge Committee.

MRS. L. DUNCAN LLOYD (Chicago, Illinois): Mr. President and members: As Mrs. Brown has said, the ladies' bridge will be held this afternoon in the South Lounge at 2:15. We cannot emphasize too often that this is a social event, not a tournament, and we want every woman to come, no matter what the caliber of her bridge. We all know that good players do not have a corner on good prizes.

We are very sorry that the men are not invited. Of course, the men are going to say that this is because the women are afraid they will take all the prizes, and they are right, we are. (Laughter). If any men care to be alternates, give me your name after the meeting. The line will form to the right out there. We may need a few to help out and fill in.

If you haven't given the little woman the announcement of the women's events, please do it because if you do not, you might have to buy a duplicate of one of those prizes out there. I had to buy my husband a ham-holder last year after he saw the men's golf prizes.

Finally, if she does not like bridge, the people, or the prizes, tell her to come and have tea at 4 o'clock. (Laughter and applause).

PRESIDENT McGOUGH: Mrs. Lester P. Dodd, Chairman of the Ladies' Golf Committee.

MR. DODD: I am subbing for her (Laughter). That is not a misprint; I am not Chairman of the Women's Golf Committee, but the "little woman" is out on the golf course now and asked me to make this announcement for her because during the past few years, during the war restrictions on travel, and so on, many of the women have not been bringing their golf clubs to these meetings; and some years ago they used to have very, very well attended and very enjoyable women's golf tournaments. They are trying desperately to revive those again, and so they are going to hold a tournament here tomorrow morning. That will be on the Homestead course.

As far as I know, the women will not be obliged to disclose their ages—at least it wasn't indicated that they would play in classes. But there will be a women's tournament on the Homestead course tomorrow morning, and they would like very much to have all women who are here—whether they have their golf clubs or not—to borrow their husband's since the husbands won't be using them in the morning, and sign up for that tournament.

There will be a sheet at the registration desk, and I am informed that there will also be one available at the women's bridge party this afternoon. They would like very much to have you there, whether your golf is good, bad, or indifferent.

Thank you.

PRESIDENT McGOUGH: Thank you very much.

Ladies and gentlemen, that completes the program for today.

MR. CAREY: Mr. President—

PRESIDENT McGOUGH: Pat Carey, Chairman of the Committee to Select the Site for the 1948 convention.

MR. CAREY: Paul McGough has posed a question here this morning that this subcommittee is troubled with, and it is a serious one. We would really like some help, as much as we can get. We would like a show of hands.

Strange as it may seem, this nice, decorous group that we have are not so welcome every place. We have just gotten too big. The crowd has become so great that so many of the hotels find their capacity limited and for that reason turn us down. So it is not an easy job to select a place.

For instance, at the present time we have canvassed and we know that we are not going to be able to get such places as the Chateau Frontenac at Quebec, the Broadmoor at Colorado Springs, the Cavalier at Virginia Beach, the Edgewater at Biloxi, the Ocean House at Swampscott Springs, the Empress at Victoria, and the Del Monte Inn at California. We have gone around the world but we have not found a place. This year we are confronted with something that is very difficult because we are talking about having a convention sometime in the West. We haven't so many members there, but we would like to honor them, as we have often discussed.

This year is the year that we should go there if we are going to go at all. The American Bar is holding its meeting out at the Olympic Hotel at Seattle, Washington, September 7th to 11th, right after Labor Day. We would have to have ours

just before that or have it as an anti-climax afterwards. The expense, roughly, from this area, from New York, would be about $184. That would be exclusive of taxis and Pullman. From Chicago about $126; Boston, about $193; Atlanta, $167; and so forth.

What we would like to have you give us a little show of hands on here is an answer to about four or five questions. I will read the questions first, so that you won't be voting blindly.

This year, if we are not going to conflict with the American Bar and if we are able to get Greenbrier, it would have to be sometime along about August 20th in order to get our convention out of the way and give people a chance to get out West.

The question is, of course, first, Greenbrier, I presume.

Another question we wanted to pose was: If we are going to the West Coast, we have available the Fairmont Hotel at Nob Hill, San Francisco, and the Huntington at Pasadena, California.

Another question that we'll pose is perhaps in spite of an unfortunate circumstance that we had at Mackinaw Island, maybe some of you would like to go back there. We would like to know how you feel about it. We had some sickness up there, and so many of the people did not like it. There is still available, or probably will be available, the Edgewater Beach at Chicago. We may have available to us this hotel here, the Monmouth.

First, I would like to know if we can get the Greenbriar—if we can possibly get in there with an unlimited membership and unlimited attendance. Let me see how many would favor the Greenbriar if we had to go there as early as August 20th, in order not to conflict with the American Bar. Let us have a show of hands.

(About thirty hands were raised).

Now, how many would plan to go to the West Coast in connection with the American Bar and if we were able to hold a meeting out there at either San Francisco or Pasadena on the way?

(About twenty-five hands were raised).

How many would like to go back sometime—either this year or some coming year—to Mackinaw Island again?

(Three hands were raised).

How many have been favorably impressed with the Monmouth here for a return engagement at some future time?

(About fifty hands were raised).

How many would still like to go back to Edgewater Beach at Chicago?

(Two hands were raised).

We will use that information and that show of hands to the best of our ability. But as the President said, we really have difficulty in trying to find a place for this convention, and we are going to have more of it as time goes on.

PRESIDENT McGOUGH: Thank you very much.

I am going to ask Mr. Carey on Saturday morning, just before the report of the nominating committee, when we will have a full attendance, to just take a straw vote—just a hand vote because a hand indication is very helpful to the Executive Committee—by a show of hands just where you people would like to go.

With that, there being no further matters to come before the convention, we will adjourn until 9:30 Saturday morning for the convention, and the Open Forums at 9:30 tomorrow morning.

(Whereupon, at 1:00 p.m., the General Session adjourned).

SATURDAY, SEPT. 6, 1947

The General Session reconvened at 9:30 a.m. on Saturday, September 6, 1947, President Paul J. McGough, presiding.

PRESIDENT McGOUGH: The meeting will now come to order.

We will have a report from the Standing Committees. The Committee on Life Insurance, Chairman Gerald M. Swanstrom of Milwaukee.

MR. GERALD M. SWANSTROM (Milwaukee, Wisconsin): Your Committee on Life Insurance submitted its report which I think will be published in the *October issue* of the Journal. I have nothing to add except to say that with this group specializing in insurance generally, and with the changes that have been made and will have to be made before January 1st, I think a lot depends upon trial counsel in interpreting these new contracts that most companies are putting out today.

We have heard in some of these sessions the implication, at least, that some of the courts are rewriting our contracts. I am afraid that is true. When we get the new provisions going, no doubt they will be subject to attack and it will be the responsibility of trial counsel to intelligently present these to the courts so that they will say what we intended them to mean.

I have nothing further to add. (Applause).

PRESIDENT McGOUGH: Thank you, Mr. Swanstrom.

The Chairman of the Fidelity & Surety Law Committee, George M. Weichelt. Have you a report to make?

MR. GEORGE M. WEICHELT (Chicago, Illinois): A report, of course, will be published in the Journal. We hope that when we are on these committees to do something to which we have the right answer. It is up to us to find the answers. We believe that these committees are useful, and I believe that the round-table discussions, which have been started so ably this year, will be of great help this year and in future reports.

As far as the report is concerned, I refer you to the Journal.

PRESIDENT McGOUGH: Thank you, Mr. Weichelt.

The Chairman of the Health and Accident Insurance Committee, Mr. Lon Hocker, Jr., of St. Louis.

MR. LON HOCKER, JR. (St. Louis, Missouri): Mr. Chairman, the report has been published in the July Journal. I move we dispense with any report.

PRESIDENT McGOUGH: Thank you.

Mr. Milton Albert, any report from the Home Office Counsel Committee?

MR. MILTON A. ALBERT (Baltimore, Maryland): Mr. President, the report has been published. It appears in the July Journal. I think it speaks for itself.

PRESIDENT McGOUGH: Thank you, Mr. Albert.

Any report to make from the Committee on Fire and Marine Insurance?

(No response).

PRESIDENT McGOUGH: If not, we will now return to the program, item number 3.

The next speaker is a gentleman who during World War II was in the Intelligence Service in Washington, supervising Intelligence operations with respect to Communists and other groups similar to that.

Last year the War Department sent our next speaker to Europe to discuss with military leaders matters pertaining to Communism and other similar titles and similar activities in other countries, which I am not going to mention now.

Mr. Tucker at the present time is Lieutenant Colonel, Military Intelligence Reserve, and he is here to tell you some of the facts about what he has observed on a trip to Europe. Mr. Tucker. (Applause).

(Mr. Tucker thereupon read to the General Session his paper entitled "What the Communists Are Trying To Do To Us.")

(Applause).

Lt. Col. Tucker's address will be found on page 225 of the Journal.

PRESIDENT McGOUGH: Thank you very, very much, Mr. Tucker, for a most enlightening discussion on a timely subject, something that we all want to know more about. Thank you for coming Mr. Tucker.

Number 4 on the program today is the Report of the Memorial Committee by the chairman, Mr. Elias Field.

(Mr. Elias Field of Boston, Massachusetts thereupon read to the General Session the paper entitled "Report of Memorial Committee).

Report of Memorial Committee will be found on page 237 of the Journal.

PRESIDENT McGOUGH: Thank you, Mr. Field.

The next speaker needs no introduction—a man who has been a member of our Association for many, many years, Robert P. Hobson of Louisville. He will give an address on "Liability for Fire and Explosion Following Accident." Mr. Hobson, please.

(Mr. Hobson thereupon read to the General Session the paper entitled "Liability for Fire and Explosion Following Accident.") (Applause).

Mr. Hobson's address will be found on page 229 of the Journal.

PRESIDENT McGOUGH: Thank you very kindly, Mr. Hobson, for an excellent paper.

Is there any unfinished business to come before this convention?

MR. CAREY: We would like to have some expression from the membership about this matter of the site for the 1948 convention.

All those who believe that they would go West for a meeting—that they would like to go West—would you please raise your hands.

(There was a majority showing of hands).

Gentlemen, one more thing. The committee also would like all the help you

can give us, because we are having our troubles in the selection of a site. We are trying hard to do something about the Empress Hotel at Victoria. We are also trying to do something about Banff; we can go into San Francisco. We have a confirmed reservation there if we want to take it up—that is at the Fairmont on Nob Hill in San Francisco.

One more question before we stop, because some other committee will want this help in the future. Following next year, perhaps, what is your attitude towards the Monmouth? Have you had a good time here and would you like to come back here again? How many?

(There was a majority showing of hands).

PRESIDENT McGOUGH: Thank you, Mr. Carey.

Any other unfinished business to come before the convention? If not, then I wish to make an announcement in connection with the editorship of the Journal.

The committee that was appointed to study and consider that problem is ready to submit a report to the new Executive Committee this afternoon, the effect of which is that they will recommend, if this plan is acceptable to Mr. Yancey he will continue as editor and an associate editor will be appointed. Until the Executive Committee acts on it, I will withhold mentioning the name. But Mr. Yancey has agreed to continue on for another year, at least with the aid of an associate editor. I thought you would like to know that. (Applause).

There being no further unfinished business to come before the convention, item number 7 is New Business.

Any new business to come before the convention? If not, then we will proceed with the item of New Business which will be taken up by Mr. Lowell White, covering the proposed amendment to bylaws. Mr. White will explain the problem to you.

MR. LOWELL WHITE (Denver, Colorado): Mr. President, ladies and gentlemen: The by-laws as they are now written provide for two classes of membership: associate membership and full membership.

It is the consensus of the Executive Committee that there is no need for two classifications, and that each person who seeks membership should apply in his own right and have all the rights to the Journal, votes and everything else, and therefore it is proposed that the by-laws be amended in that respect.

The proposed amendment is Article V, Section 1 be amended to read as follows:

> "Section 1, amount of dues. Beginning January 1, 1948, each member shall pay the Association $12 dues for the period beginning January 1st of each year and ending the following December 31st, payable January 1st of each year in advance, which sum shall include the subscription of the members to the Association Journal, which is $5 per year."

Mr. President, ladies and gentlemen: The by-laws provided that they may be amended at any annual meeting, provided fifty members are present and provided further that notice has been given to all the members at least thirty days in advance of the meeting.

I wish to suggest that a quorum is present for the purpose of passing upon this proposed amendment, and I move that Section 5 be amended in accordance with the notice appearing in the last Journal.

(There was a chorus of "Seconded.")

PRESIDENT McGOUGH: Any discussion?

Whereupon a short discussion ensued between Mr. Horn and President McGough.

All in favor of amending the By-Laws as stated by Chairman White indicate by saying "Aye."

(Chorus of "Ayes.")

PRESIDENT McGOUGH: Contrary?

(No response).

PRESIDENT McGOUGH: The Ayes have it.

MR. WHITE: Mr. President, ladies and gentlemen: It is also proposed that Article XII, Section 1, be amended so that the first paragraph reads as follows:

> "The following committees shall be appointed annually by the President, each to consist of not less than five members to serve for the ensuing year and until their respective successor shall be appointed."

The only purpose of this is to permit the appointment of any number more than five. In the past, according to the By-laws, the committees were supposed to be limited to five. Therefore, Mr. President, I wish to move that Section 1 of Article XII be

amended in accordance with the notice appearing in the Journal.

(Chorus of "Seconded.")

PRESIDENT McGOUGH: You have all heard the proposed amendment stated by Chairman White. Any discussion?

(Chorus of "Question.")

PRESIDENT McGOUGH: All in favor of the amendment signify by saying "Aye."

(Chorus of "Ayes.")

Contrary?

(No response).

The "Ayes" have it.

MR. FRANCIS: Do I understand from the amendments which have just been adopted that any provision has been made whereby those who now have the status of associate members automatically become full members upon the payment of dues?

PRESIDENT McGOUGH: As of January 1st, that is true.

Thank you.

Any further items of new business to come before the convention? Otherwise, we will proceed to item number 8.

Before proceeding with that, I would like to have the record show that there has been a full and complete compliance with the requirements of the By-laws, Mr. Secretary, as to the attendance at the time that the By-laws were amended.

SECRETARY McALISTER: The attendance in the hall at the time the vote was taken was in excess of 150 active, qualified members of the Association.

PRESIDENT McGOUGH: Due and proper notice of the amendment was given as required?

SECRETARY McALISTER: That is so.

PRESIDENT McGOUGH: It is unanimous.

Item number 8, the chairman of the Entertainment and Prize Committees will please come forward. I know we will have a full and complete attendance here in a few moments. (Laughter).

Ladies and gentlemen, it gives me great pleasure to present the chairman of the General Entertainment Committee, the man who is responsible for the good time that has been given to all of you here, and especially last evening's performance, Mr. Hap LaBrum. (Applause).

MR. J. HARRY LaBRUM (Philadelphia, Pennsylvania): I want to thank you for your kindness last night. The hotel people and the show people who were here said that they never had a more appreciative audience and they asked me if I would not thank you again for your kindness to them last night. They hope that they may come back again some other year when you have entertainment.

Thank you. (Applause).

PRESIDENT McGOUGH: While we are in the act of thanking, I want to express my deep appreciation for the splendid attention that everyone has given to the speakers throughout this convention. I have never known of a convention where the people—the members came into the convention and remained throughout and really enjoyed the speakers on the program. I want to congratulate you all on that fine attention and the reception given our speakers.

SECRETARY McALISTER: While we are thanking you and waiting for John Anderson to come up front and to find out who gets the prizes, the Secretary wants to thank you for leaving your badges last year. We did not have to buy any badges this year; all we had to do was buy some cardboard inserts. We would appreciate, when you leave today, if you would drop your badge in the box and leave your key at the desk. The management will appreciate that. (Laughter).

PRESIDENT McGOUGH: Is the "late" John Anderson here? (Laughter).

(Awarding of prizes). (Applause).

PRESIDENT McGOUGH: I am going to ask Secretary McAlister just to explain a matter to you before we proceed to the next item of business.

SECRETARY McALISTER: There has been considerable question as to what the mechanics will be of the proposed amendment to the By-laws that was proposed in the July Journal and which was approved by the membership this morning. Someone thought the associate members would have to apply all over again. That is not correct. You are a member and your classification is just raised. You are all raised to $12. You are all equal: instead of some paying $12 and some paying $8, you are all equal. Everyone is still a member and, as of the 1st of January next year everybody will be billed $12. You remain on the membership rolls and there will no longer be any difference in the classification of membership or the amount of dues payable by the members. The treas-

urer will bill you as of January 1st for the current rate of full membership, $12.

PRESIDENT McGOUGH: Thank you, Mr. Secretary.

At this point we will call on the chairman of the Nominating Committee, Mr. Pat Eager.

MR. PAT EAGER, JR. (Jackson, Mississippi): Mr. President, ladies and gentlemen: I was somewhat mystified, in my being appointed chairman of this committee, when one of our eminent speakers already announced in his speech that he knew who the new officers would be. I think he ought to be on the committee, but they did not put him on there.

I want to say that this committee has given this matter the most serious, earnest consideration. We put all the ability that we had into it. I want to express my appreciation and that of the committee for the fine response to our request that you come down and make known your wishes.

Between 60 and 70 members appeared personally before the committee and expressed their views as to one or more officers that were to be selected.

The committee in its deliberations reminded me a little bit of my granddaughter, Pat. She has a little play girl next door. They are both about five years old, and nearly every Sunday evening her mother takes Pat down to the Baptist Church for the story hour. You know, if you don't belong to the Baptist Church down South, you are just going to hell; I can tell you that now. (Laughter).

One Sunday evening, her mother could not take Pat, for one reason or another, and she insisted on going. So I said, "All right, get fixed up and I'll take you." So I took her, picked her up and brought her back. Next morning, I was getting ready to leave, and Pat and her little playmate were outside in the sandpile, when I heard the little girl say, "Pat, what do you do at the story hour?" She said she plays games, sings and prays to God. That's what this committee has been doing. (Laughter).

Gentlemen, we have had quite a problem in selecting your chief executive. The names of two members have been brought before us: one time, this man; one time, that man. And so it was right through the proceedings. You know them both well; either one would be an ornament as president of this organization. Each in time has been a member and served on the Executive Committee. Resorting, therefore, to what we conceived to be the unanimous opinion of this committee, under those circumstances, two men, as far as you that came before us are concerned—an equal number on one side and an equal on the other—we are going to invoke the democratic principles and let you pick out Clarence W. Heyl or Lowell White. We nominate them both. (Applause).

Three vice-presidents, John R. Kitch of Chicago, J. Harry LaBrum of Philadelphia, and Stanley C. Morris of Charleston, West Virginia.

Treasurer Forrest S. Smith, Jersey City, New Jersey, who is living at Red Bank, nearby.

For the three members of the Executive Committee to take the places of the three whose terms expire now: Milton A. Albert, Baltimore; Wayne Ely of St. Louis; and Joseph A. Spray of Los Angeles.

Your committee submits this report, consisting of Tom Bartlett, Denis McGinn, "Tiny" Gooch, Frank Marryott, and the speaker. (Applause).

PRESIDENT McGOUGH: Thank you, very kindly, Mr. Eager. I also wish to thank each member of your committee.

You have heard the Report of the Nominating Committee. It is now the privilege of any member to nominate any member of the Association from the floor for anyone of the offices to be filled.

Are there any other nominations?

MR. MAYNE: Mr. President, I move the Report of the Nominating Committee be accepted and that we proceed with the balloting for president of this Association and that the other nominees who have been mentioned by the Nominating Committee be accepted and elected to their respective offices.

(Chorus of "Seconded.")

MR. EAGER: Mr. President, just a minute. Everybody assumed that David McAlister be your secretary. He is on the list as secretary. (Laughter and applause).

MR. KNIGHT: Mr. Chairman, as substitute for Mr. Walter Mayne, I now make a motion that the Secretary cast the ballot of this Association for all of the nominees except president, but including himself.

(Chorus of "Seconded.")

PRESIDENT McGOUGH: You have heard Mr. Knight's motion that the Secretary cast a ballot for all of the officers

except that of president. All in favor signify by saying "Aye."

(Chorus of "Ayes.")

PRESIDENT McGOUGH: Contrary? (No response). So ordered.

(Whereupon, the Secretary cast one ballot).

SECRETARY McALISTER: It has been done.

PRESIDENT McGOUGH: That includes the office of Secretary which is not on this list. (Laughter).

MR. EAGER: Put his name on.

PRESIDENT McGOUGH: Your By-laws, as you all know, provide that all elections shall be by written ballot unless otherwise ordered by resolution duly adopted by the Association at the annual meeting at which the election is held. There will be a motion to suspend. Is there a motion to suspend the written ballot on the voting for the presidency?

(Chorus of "Nay.")

PRESIDENT McGOUGH: Or by hand or rising vote?

(Chorus of "Nay.")

PRESIDENT McGOUGH: The ballots will be passed to you in just a moment by the Secretary. I am now going to appoint three tellers: Mr. Harlan S. Don Carlos of Hartford is one, Mr. Richard Montgomery, and Mr. Percy McDonald.

As you prepare your ballot—and I know it is not necessary to say that only members of the Association will cast a ballot—you will write the name of either candidate on the ballot: either Clarence Heyl or Lowell White. You will then forward it to the ballot box up here. The ballots will then be counted by the Secretary.

The Chair appointed Harlan S. Don Carlos. I understand he left just a short time ago. He was appointed a teller; therefore, I will appoint another teller, Mr. Bill Baylor. He will be the third teller.

(Whereupon, the balloting took place).

PRESIDENT McGOUGH: The meeting will please come to order. This election has been so hot that it burned out the microphone. The tellers have handed me their report signed by F. B. Baylor, Chairman; Percy McDonald and Richard Montgomery. It reads as follows: "Number of votes cast 157. Necessary for election 79. Mr. White received 113 which is a majority; Mr. Heyl received 44." Mr. White having received 113 votes, which is a majority, I hereby declare him elected to the office of President.

(A rising vote of applause).

PRESIDENT McGOUGH: Mr. Rowe, please escort Mr. White to the rostrum.

PRESIDENT McGOUGH: Ladies and gentlemen, I present to you the new President of the International Association of Insurance Counsel, Mr. Lowell White. (Applause).

I also present—this is merely a loan—the gavel for further use at this convention.

PRESIDENT-ELECT WHITE: Thank you. I have waited on jury verdicts and it has never been funny. I have the usual butterflies in my stomach. I cannot make a speech. I did not realize that you could get all emotional. But I am very happy to think that I have so many friends. I humbly accept the office and, with your help, we will try to do as good a job as the last administration.

I think Paul McGough has made an extraordinarily good president and all the members of the Executive Committee have done a great job as well as the committee chairmen and other members. I hope that I might serve you acceptably.

Thank you very much. (Applause).

The Executive Committee will meet in the Play Room at 2:00 o'clock. Let us try to be prompt. Thank you.

The meeting is adjourned.

(Whereupon, at 12:30 p.m., the General Session was adjourned).

Address of Welcome

By Haydn Proctor
Asbury Park, New Jersey

It is my privilege to extend to you officers and members of the International Association of Insurance Counsel, a most cordial welcome to your convention on behalf of the State of New Jersey, and especially my home County of Monmouth. It is my understanding that your association was brought into being in this State at Atlantic City twenty-seven years ago. It is a real pleasure for me to have you return to New Jersey and to Spring Lake, which I feel is the finest resort in New Jersey.

New Jersey is now passing through one of its most historical periods. The people last Spring voted to call a Constitutional Convention to revise our State Constitution, which was adopted one hundred and three years ago. Today the Constitutional Convention, to which I am very proud to be a delegate, has concluded a new State Constitution which we have every reason to believe will receive overwhelming approval at the November general election.

As lawyers you will appreciate the problems that are entailed in re-writing the State's fundamental law. For example, the entire court structure of the State will be changed in the judicial article. Law and equity courts, which in New Jersey have been complete separate entities, will be merged into a court of general jurisdiction.

At a time like this, when the State's judicial structure is about to undergo its greatest change since 1844, a nation-wide organization of insurance lawyers, like yourselves, can be most helpful. You have the machinery to disseminate quickly among your members all over the country, in Mexico, Canada and elsewhere, the full import of this changing judicial scene. In this way, your association undoubtedly will be able to save considerable time and expense in the handling of insurance litigation. I am certain the New Jersey membership, which includes some of the most eminent insurance lawyers in the country, will assist in supplying all the information you require as to these constitutional changes.

Perhaps I am so enthusiastic about the work of the Constitutional Convention, which resolved all major differences in a fine spirit of non-partisanship by the two major political parties, that I drifted away from my assignment to welcome you to New Jersey.

We Jerseymen are proud of our State, as all of you are proud of your own. New Jersey is represented by the third star in the Flag, for it was the third of the thirteen colonies to adopt the United States Constitution and its delegates were unanimously in favor of it. During the Revolutionary War, as you well know, the State was crisscrossed by General Washington and his troops a dozen times and the Battles of Trenton and Princeton, which to my mind were the turning point in the American cause, were fought less than fifty miles from here. Even closer, fifteen miles away in Freehold, is the field where the Battle of Monmouth was fought, with its Molly Pitcher legend. Although small in area, New Jersey has a higher variety of natural resources, scenery, industry and agriculture than we think exists anywhere. We have one hundred and twenty-five miles of coast line with some of the finest resort beaches in the country. All you have to do is walk out the front door of this hotel, properly attired in a bathing suit, and try it out for yourself. We have the rolling hills and lakes of New England; a richly productive agricultural belt and a teeming industrial section that I am informed produces a greater diversity of products than any section of the country. Our average wage scale is the highest in the nation and the average factory worker in this State earns $1.30 an hour, or $51.00 per week. These are the latest figures from the New Jersey Department of Labor. There is one thing we do not have to so great a degree that many of you from other states have to endure, and that is the unpleasant matter of taxes. New Jersey has no state income tax, no state sales tax and no cigarette or nuisance taxes. How long we can continue to finance the state government without them, I do not know, but business and industry in this State enjoy a tremendous competitive ad-

vantage because of this favorable tax situation.

At the moment, New Jersey is giving serious study to the enactment of a sickness and health insurance program, that, if adopted, will be of great interest to all you lawyers in the insurance field. No decision has been made as yet as to whether this program will be operated by the State, or by private insurance companies, or a combination of both. My personal belief, however, is that one or the other of these programs will be worked out by Winter and will be enacted into law in the 1948 Legislative session.

Serious consideration also is being given to compulsory insurance for all automobile drivers.

Another progressive step in your field recently undertaken by New Jersey, has been the modernization of its Workmen's Compensation Act, with the adoption of new schedules and benefits adjusted to the present day economic conditions.

Let me deviate a moment from insurance —I am certain you will hear that word frequently enough during your convention from other speakers. As lawyers, there are two other New Jersey experiments which should interest you. We have enacted an anti-discrimination law, which seeks to combat racial and religious intolerance by education rather than on a punitive basis. A new division was established in the State Department of Education to investigate all such complaints and settle them, if possible, on an amicable basis. In the two years this law has been in effect, all cases have been adjusted without the necessity for a single prosecution. Most of the activities of this division have been centered on educating employers and civic organizations, and by eliminating intolerances instead of punishing them when they are detected.

Another legal milestone erected in New Jersey was the Public Utilities Collective Bargaining Act, although it is commonly called the Public Utilities Anti-Strike Law, of which I am very proud to have been the sponsor. This measure establishes the principle that the general health and welfare of all the people is paramount and gives the state the authority to seize and operate public utilities plants where strikes are threatened or occur. While not perfect, this measure operated effectively during the last two years to prevent any interruption in gas or electric power production during a series of labor disputes in this field. It was not so effective during the telephone strike of this Spring, largely because of the national scope of the strike. However, there is a basic principle involved here, that no one has the right to strike against a government, be it federal, state or local, at anytime or in any place. The state has the right to grant a monopoly to public utilities in their fields and to fix the rates they may charge. It seems equally logical it should be able to set up the mechanism to adjust wage scales and working conditions, so that there can be no interruption of service.

Thus you see New Jersey is trying in a progressive fashion to meet some of the troublesome problems of our times.

I sincerely trust the inter-changing of ideas and information at your convention will be helpful to all of you and that, in addition, you will have the opportunity to enjoy yourselves so that you will take home with you pleasant memories of the State of which we are so proud.

"The Brass Ring"

By E. A. Roberts, *President*
The Fidelity Mutual Life Insurance Company
Philadelphia, Pennsylvania

JUST as a broken-down prizefighter thrills at being introduced to the crowd by the announcer, as a part of the ceremonies before the main bout, so a sometime, or one-time, lawyer is complimented upon receiving an invitation to address those of his brothers who are still in the stream of things.

One of the first things Paul McGough did upon his election to the Presidency of this splendid Association was to extend an invitation to me to appear at this meeting. It is pleasing to be among those invited to sit at the first table. While it is certainly an evidence of our long and cordial friendship, it is devastating in its implications. No semblance of an alibi for unpreparedness is available to me and

from this rostrum I should speak with great wisdom.

When I entered the practice of the law we still fussed a good deal about the rules of common law. Workmen's Comepnsation, as the social reform of the day, was sweeping the country. I have forgotten whether it started in Massachusetts or Wisconsin, but I do know it tinkered with the common law rules of contributory negligence, assumption of risk and possibly others. This was the greatest heresy to the senior partner in our office, who refused absolutely to have anything to do with compensation cases.

On the other hand, as a young lawyer I found the representation of Casualty companies extremely handy from the standpoint of office overhead expenses and some very interesting office conflicts developed.

There was another member of the Duluth bar who refused to represent, in an automobile case, any client who carried insurance. He was not fussy whether it was stock or mutual coverage, either.

These men are dead. Those attitudes have largely disappeared and I am told there have been other changes in the practice of law. So many, in fact, with the advent of administrative law, of Government agencies and the rest, that I would be dismayed at the thought of actively re-entering the profession. It leaves me with an even greater admiration for those men who are successful in practice today.

One of the most difficult parts of a public appearance for me is the selection of a title for my address. "The Brass Ring" was finally decided upon through an exchange of telegrams just before this program went to print. I wished to reminisce with you a little, therefore I knew what I wanted to talk about, though both the Program Committee and your speaker were hesitant to call it "A Re-Hash" or "A Twice Told Tale" for fear of keeping people away not only from this particular session, but from the Convention itself. Quite evidently the deception practiced upon you has been successful.

My first case in practice involved an automobile accident at a street intersection. I hate to think how many such accidents and cases there have been since the automobile really came to stay. I represented an insured defendant. The plaintiff's lawyer opposing me was also trying his first case. The trial was had in the Municipal Court, presided over by Judge Cutting, and, pursuant to the practice followed in those days, and possibly today, we argued the merits of the case before a jury of six free men. After a spirited trial the jury returned a verdict of $1.00 for the plaintiff. We argued a motion for a new trial, which Judge Cutting took under advisement, following which he precipitately died. Almost never can young lawyers on opposing sides both win their first case. My fee was $35.00. I think that would compare rather modestly with fees today.

The experiences I had as a trial lawyer undoubtedly parallel your own. They have left me in some doubt as to the validity of the jury system, regardless of what may be said by others in legislative halls or on the Fourth of July. I saw some of the first women jurors and made mistakes I would not repeat today. One day, in drawing a jury, I found I couldn't strike Mrs. Butchart from the panel. She was a friend of my mother and for this reason the other side wouldn't strike her. She later told me she couldn't vote for my side of the case regardless of the rightness of the proposition because she would be accused of favoring the son of her old friend.

I brought two girls from Chicago at great expense, in another case, who testified squarely on the point at issue. A woman of that jury later asked me whether I was curious to know why I had lost. Telling her I was, she reminded me that both girls testified they were married women and neither wore a wedding ring.

But let me come now to the three distinct phases of my active career, which led to the selection of this title.

Before the supersonic, Superman era, young people rode merry-go-rounds and, like free games today on a pinball machine, if you caught a brass ring you won a free ride. The only real difference between a steel ring and a brass ring was that you surrendered the brass ring for the free ride, while the steel ring was usually kept as a souvenir.

Filled with fire and hope, as I was after winning a war, completing my law studies and being admitted to the bar, the last of which I am told is today no mean accomplishment, I proposed to be my own boss, to take only cases that were just and to talk to juries. Almost in a twinkling I was caught on the wheel and became known as a defendant's attorney. This was a little rugged in the early days of prohibition as most of the fun and easy money

seemed to be on the sweaty side. Naturally there was enough justice on the defendant's side to satisfy the most critical person.

It was then I came to know about Home Office Counsel, general and otherwise, and in my simplicity I tried to evaluate causes to determine how much at issue warranted a court proceeding, how much warranted an appeal and a second trial. One day I thought of $350.00 as a minimum for any sort of law suit. That was in the era of my naivete. I wondered what touch-stone these Home Office people possessed that they could, with such certainty and abandon, send me into trial and appellate courts. Those of you in practice can call up any number of examples of the thing I am talking about.

One such was a suicide case in which we stupidly offered in evidence the coroner's certificate with its verdict of suicide, only to have it accepted to win the case in the trial court. It was inadmissible evidence. Everyone seemed to know that but the judge. I thought the case deserved to be settled. Settlement was recommended before the appeal, which was won by the plaintiff, and after the second trial, which was lost by your faithful servant.

I thought so even more keenly when a brown bus toppled a model "T" into the ditch. The driver of the bus was unaware of the accident, but there was brown paint on the front left fender of the "T." The case could have been settled modestly. Upon the company's refusal to approve my settlement recommendation, I did the next best thing—I tried the case. The most important object in the court room was a Ford fender with brown paint that matched my bus. When the jury awarded the steam shovel operator plaintiff $7,700 because his lever playing hands were involved, I suspect I was almost at the breaking point with the General Counsel of the interested Casualty company. No defendant's lawyer ever developed greater irritation with Home Office Counsel, most of whom I then judged had never tried a law suit and came into their offices only long enough to roll some balls for me to throw before going to the Country Club.

Now we come to the second time round for the brass ring grabber.

It can only be that laziness or curiosity overtook me when I listened to the siren song of Home Office law work. Here it would be fun rolling balls for a change and if they weren't thrown properly we could drop incompetent trial lawyers at the local level.

The first question asked me by the President of the company with whom I became associated, was "Did you ever lose a law suit?" That was one on which I really waxed eloquent. Before that question was asked it was intimated that I was not being offered the job in this interview, whereupon I reminded my new friend that I already had employment. When I finished answering the question "Did you ever lose a law suit?" he asked: "When can you come with us?" It was his theory that more dangerous than the lawyer who had never practiced law was the one who had never lost a law suit. It was his feeling that if he hired a 100 per center, the first loss would be at his expense and he preferred not to hire a lawyer with unsharpened teeth. This very great man was an Actuary and I think he followed an excellent employment pattern.

He should have asked me one more question and that was "Are all cases worth winning?" One time, to apply what I thought were needed disciplines, I gained a Pyrrhic victory. I rolled the balls and my friends at the bar in Kentucky fired them twice through the lower court and twice through the Supreme Court to prove my point. We had a cost bond that helped somewhat, but it was well nigh impossible to pay local Counsel what his time was worth. It never occurred to me that while justice may have triumphed, it was impossible for the corporation to explain to some people why we had pushed their friend around and a mild case of bad public relations was the net result. In the belief that no man can afford as much as one enemy, certainly no corporation should even stop to consider whether or not it will risk having one.

Connotations readily attach to many companies and to many Home Office and General Counsel attitudes on litigious matters. Some few are known as those who will compromise everything and others who, when they get their faces fixed, will pay not one cent of tribute. Neither of these reputations is enviable. To me the most worthy and successful Home Office Counsel is one who will carefully select and stay with good local counsel; who will write a covering letter which gives the man on the firing line the full story, including any errors or delays or other

irritations that may have been chargeable to the Home Office; and, finally, one who will support and follow the well-considered judgment of the man on the ground.

Because of tough cases we have seen courts generously re-write our contracts. With all of the language now necessary to meet statutory requirements and the recorded cases, an insuranec policy is the least readable literature I know. If we are told that it is open season on our sort of corporation in a particular jurisdiction, the thing to do is to withdraw from the writing of new business rather than try to prove the incorrectness of such an observation by hitting one's corporate head against the wall. At least this is my opinion. One time I prepared a paper on the Life Insurance Law of a particular state and I could hardly refrain from observing in the delivery of that paper that claim judgments on the part of half a dozen companies were largely responsible for the body of life insurance law of that state, mostly bad.

And now to the third phase of my experience as a lawyer, and I say that because I am still a member of the American Bar Association. It is most hospitable of such Associations as your own to count me in as an honorary member, though it is a trifle humiliating to confess that my legal wits having dulled, I am no longer a match for you. I momentarily hold the brass ring, which I must surrender for the free ride to which I am entitled. Actually my role is that of an onlooker. Remembering my interesting novitiate as a ball thrower and later my satisfying experience as a ball roller, I now watch the play between these successors of mine much as a grandfather who enjoys the play of the sticky little ones until they need real service or attention.

Having confessed my current inadequacy, it would seem that no side line opinion of mine today would be very convincing. I must, therefore, lean heavily on your patience in offering any advice for the good of the Order.

In looking at the roster of our membership it is apparent that men in practice preponderate. While it may be an unwarranted assumption, I feel that most of the men in practice have not served tours of duty as kept lawyers. With that thought in mind it occurs to me that there might be some merit in a few observations for the better understanding of those whose experiences have been limited either to practice or to Home Office activity.

Certainly in the larger field of urban practice the one man law office can not function successfully today. If any proof were needed, all one has to do is look at the field of taxation. Taxation has always been an important subject, but today the developments in that field have placed great burdens on all of us. Even with all of the services available, the problem of keeping abreast is more than enough for one man.

Labor relations provides another striking example. This is a brand new excursion and, while it carries the promise of a lot of work and fees, it carries with it a veritable harvest of headaches, the most significant of which is the consumption of time.

Any lack of awareness on the part of the Home Office Counsel to the time demands put on practicing lawyers will produce genuine irritation. If these things are so, companies should use the least possible amount of a working lawyer's time. Head Office Counsel should be prepared to follow the advice they seek and get, and, incidentally, they should pay decently for such services.

On the other side of the picture many things have happened to the law shops of companies since the time I was blithe enough to think I could run one.

The growth in administrative law and controls which appear and disappear have not left Home Offices entirely untouched. Then, too, it will be remembered that the Southeastern Underwriters case has held us to be in interstate commerce. While we are enjoying an armistice under Public Law No. 15, as extended, we may soon enter a new field of regulation hitherto unknown to us, yet well known to lawyers practicing in other lines of business activity.

One day many insurance companies relied exclusively on outside counsel and did not maintain their own law staffs. Not only because the business is larger, but because it has had to face and meet many new problems, the law work in Home Offices has been greatly altered. Home Office lawyers today are considerably more than claim adjusters. Claims are still a part of the work to be done, but over in the investment field, for example, there is a greatly broadened scope of activity. Policy title work, including beneficiary designa-

tions, and complicated modes of settlement, which go along with the greatly increased sale of life insurance for family and business necessities, is a relatively new and highly important responsibility. Alertness in legislative matters in several fields touching upon insurance activities is altogether necessary today. While litigation is at a minimum, it requires careful handling.

It seems to me that a better knowledge on the part of both sides should be productive of a better understanding between these great institutions and that important group of men engaged in the private practice of the law.

Too often those of us charged with management of company affairs attempt to become possessive. Reference is glibly made to our millions of policyholders and billions of insurance. Basically, it is a matter between the company and a "John Doe" or his beneficiary. We all hope for good public relations. They must be earned at the source and the source is the individual with his single policy. Life insurance in action is the prompt and fair treatment of individual policyholders.

We are deeply indebted to your profession with its great storehouse of talent available to us at all times. We believe in the continuance of the private character of insurance just as we believe in the continuance of your free and independent profession.

My association with you gentlemen over a period of 20 years has been altogether pleasant and profitable to me. While I have never held an office in your Association, I have at odd times shared the fun that has been yours in little political divertisements.

For fear I may not come this way again, I thank you for your many courtesies to me down through the years and the great cordiality of my reception here today.

Nuisances

By Wayne Ely
St. Louis, Missouri

IF the title of this paper has left the impression that I intend to discuss such nuisances as slaughter houses and boiler factories, which are isolated from polite society because of the way they smell or the noises they make, then the title is misleading.

Neither shall I attempt to deliver a treatise on railroad turntables or other attractive nuisances.

The nuisance which I have chosen for a topic "smells not, neither does it spin," although it might be said to offend the intelligence in somewhat the same manner as a dead horse attacks the olfactory organ. And it certainly does go round. It has spread itself over this country like a poison fog and has become implanted in the claims offices of many insurance companies so firmly that I doubt whether it can be uprooted by anything I might say or do.

I am going to talk about what I consider the evils of settling personal injury claims and lawsuits for so-called "nuisance values." The term is, of course, miscalled, because any claim that is considered a nuisance by a liability insurance company has no value at all.

Claims of doubtful liability should not be included in the same category with nuisance claims. When the facts admit of two conclusions—one pointing to liability, and the other to no liability—that claim should, of course, be settled if it can be disposed of for a reasonable sum, and such claims usually are settled. But when all the facts are known and where they admit of no other reasonable conclusion than that the claim is worthless, it is my opinion that the presentation of such a claim by a lawyer who knows the facts might be called "pot-hunting."

In St. Louis there are some 2400 lawyers among whom there are perhaps a dozen pot-hunters who live in comfort and some of them in luxury not on "litigious terms, fat contentions, and flowing fees," but on petty sums doled out to them by claim agents who seemingly do not agree that "small sands make the mountain, moments make the year."

I have no word of criticism for the lawyer who specializes in plaintiff's cases and gets an unusually large number of them because of his proven ability to handle them or because of his everlasting industry and zeal for his client. Such lawyers

deserve and receive the respect of both the bench and bar, and are not to be confused with the pettifogger whose ability to get business may be attributed to his long-leggedness rather than to his long-headedness.

The fact that lawyers and insurance officials generally look with contempt upon these perambulating panhandlers does not deter them from wheedling a hundred dollars here and two hundred dollars there from claim agents who operate upon the theory that sound business economy calls for the settlement of any claim, no matter how worthless or how fraudulent it may be, if a settlement can be effected for less than the cost of defense.

In deciding whether it is good business to set nuisance values upon claims that have no actual value, we must remember that we are not dealing with the question of what an uninsured individual should do, or what practice should be followed by a business concern that carries no insurance and is infrequently sued. Litigation is an important part of the business of liability insurance companies, and it has been my observation that most companies will not hesitate to litigate a claim of actual liability where the demand of the claimant is in excess of the amount which the claim department believes the claim is worth. In more than one case I have had the experience, and I am sure you have had the same experience, of having the claim agent of an insurance company decide to stand trial in a case of clear liability rather than pay as much in settlement as he expects to pay after trial. If it is good business and I submit that it is, to resist a bona fide claim rather than pay the full value thereof in settlement, then I submit that by the same premise it is good business to resist a worthless claim rather than settle it at any figure. It does not seem logical that an insurance company should pay a lawyer to defend a case and pay court costs to boot when it has every reason to believe that judgment will go against it for more than the amount for which a settlement could be made, and at the same time settle a trifling or fraudulent claim rather than pay a lawyer to defend against it. Yet, that is exactly what an insurance company does when it does business upon the theory that every claim has a nuisance value.

In the first place, a lawyer who does not let his scruples interfere with his activities or regulate his conduct, will not hesitate to bring suit upon an utterly worthless claim if he knows that the defendant's insurance carrier will pay a few hundred dollars to get rid of it. And while the lawyers who engage in such practice are few, they represent many claimants. The clerk in the assignment division of the circuit court at St. Louis told me recently that one such lawyer has between seventy-five and a hundred cases listed for trial at every term of court. The average for the runner-up is about sixty. You can get a pretty good idea of the amount of business these lawyers do from the fact that we have five terms of court a year. How many claims these same lawyers are able to settle without suit I do not know, but it is probably fair to assume that they at least equal the number of suits filed.

Without the benefit of statistics, but from my knowledge of and acquaintance with St. Louis lawyers who specialize in damage suits I do not hesitate to hazard the guess that twenty-five or thirty lawyers file at least seventy-five percent of all personal injury suits filed there, and I am satisfied that I could count on the fingers of my two hands the lawyers who file ninety percent of the trifling cases in which there is no liability.

The fact that the claimants in such a considerable percentage of nuisance cases are represented by such an inconsiderable number of lawyers speaks well for the rest of the Bar, and goes to show that a very great majority of lawyers are not willing to represent the very great majority of the claimants and suitors who are represented by such a very small minority of the members of our Bar. And I am sure the same situation obtains in other cities.

The fact, and it is a fact, that "nuisance" settlements are made in practically all of the hundreds of suits filed each year by the little group of pot-hunters, and that only an infinitesimal number of them are tried, furnishes what I consider incontrovertible evidence that the lawyer filing those suits never had any intention of trying them, but that he filed them because he knew that the insurance carriers interested would pay a hundred dollars or so rather than try any one of them. It is also a fact that the same lawyer who will bring suit after suit against the insured company whose carrier recognizes nuisance values, will not file suit against another company engaged in the identical

business, but whose insurance carrier will defend to the last ditch rather than pay any amount in settlement of a claim that has no value.

Is it not, then, time for the claim departments of all insurance companies to realize that the practice of settling nuisance cases for nuisance values is a bad practice and should be done away with?

The cost of public liability insurance is, of course, determined by experience. That is, in fixing the premium which it will charge for insuring a class, the carrier is required to forecast from past experience what the future experience of that class will be. For instance, the loss experience of insured automobile drivers in a given community will determine how much automobile insurance in that community will cost per car. The same thing is true with reference to most businesses. But in the case of certain large businesses, like chain stores, the experience of the individual company may have a great deal to do with fixing the premium which that company must pay for liability insurance. It is my understanding that if the experience of the company is particularly good the cost of insurance to that company will be less than if its experience is particularly bad.

And where a large company contracts with an insurance company to handle all public liability claims made against it, it is my firm belief that the manner in which the insurance company handles the claims, and particularly the policy of the claim department with reference to the disposition of nuisance claims, has a great deal to do with creating the experience which determines the cost of insurance. Therefore, in such cases the attitude of the claim department becomes doubly important to both the insured and the insurance carrier.

I will tell you of one instance where a large chain store organization cancelled its insurance because the claim department of its insurance carrier pursued a fixed course of paying at least one hundred dollars "nuisance value" rather than stand trial in any case. For several years the insured protested against the practice and insisted that non-liability claims should be contested but the carrier continued to settle every claim that could be settled for its so called "nuisance value."

Finally the carrier advised the company that because of its increased loss experience, the insurance premium would have to be increased. The company cancelled the insurance and established its own claim department. Within a year or two thereafter the claims against that company in St. Louis alone dropped from an average of 150 a year to 15 or 20 a year, and the number of lawsuits filed against it dropped from an average of 40 to 50 a year to less than three. Coincidentally with the establishment of its own claim department, the company entered upon an intensive safety campaign which no doubt reduced the number of accidents on its premises, but it is difficult to believe that the increased safety of the premises was entirely responsible for the decrease of claims and lawsuits to ten percent or less of the previous number. At any rate, the company did cancel its insurance and the insurance carrier did lose a valuable account which it might still have if its claim department had adopted a different attitude toward the payment of nuisance values.

A number of other large companies have become self-insurers because perhaps they felt they could carry their own insurance and handle their own claims cheaper than they could buy insurance from a company that will pay out money in cases of non-liability.

It is, of course, true that an insurance company which refuses to submit to a "shake-down" will occasionally get a kick in the pants in a case it should win, but it is my opinion that the dollars lost in such cases would be far outnumbered by the dollars that would be saved by adoption of a program which would provide for vigorous defense of "nuisance cases."

What The Communists Are Trying To Do To Us

By Charles T. Tucker, *Lt. Colonel*
Military Intelligence Reserve, Washington, D. C.

IT IS a disturbing fact that among us in this nation there are thousands of American citizens who are traitors to our free democratic form of government. They seek ultimately to impose upon us a dictatorship as evil as that of Adolph Hitler; they are pledged to serve and defend the Soviet Union and consistently take sides with Russia and against us on every issue; they strive through promotion of internal disorder to weaken us in every conceivable manner; they are a menace to our national security. These traitors are the American Communists! In a recent statement before a Congressional Committee J. Edgar Hoover, director of the Federal Bureau of Investigation, declared: "There is no doubt as to where a real Communist's loyalty rests; his allegience is to Russia, not the United States." The record of American Communists abundantly supports that conclusion.

From its inception in 1919 until the present, the American Communist movement has adhered to the revolutionist teachings of Karl Marx and Friedrich Engels as interpreted by Lenin and Stalin. Communist party members are thoroughly indoctrinated with the fundamentals of Communism, through the party press, books, meetings and schools. The purpose of this indoctrination is to mould a uniform Communist consciousness, thus setting this totalitarian sect apart from all democratically minded Americans. The Communist movement is primarily a combative organization dedicated to the struggle against those whom it looks upon as class enemies. It accordingly operates on strict military lines. Indoctrination serves this army, as it does any other, as a cohesive factor. Its professed idealistic aims tend to glorify the movement and to build up the morale of its followers.

A hostile attitude toward the American government is fundamental with every Communist. It is summarized by William Z. Foster, the present party chairman, who wrote in 1932 that, "The Communist Party makes it clear to the workers that the capitalist democracy is a sham." Communists have steadfastly maintained that the Soviet Union is the only fatherland to which they owe allegiance. The note of Soviet loyalty pervades all Communist literature. It was in that spirit that Earl Browder, former party secretary, read to 2,000 applicants for Communist party membership in New York in 1935 the following solemn pledge: "I pledge myself to rally the masses to defend the Soviet Union, the land of victorious socialism."

When the Communist organization was an insignificant sect relying for its inspiration and support upon the comparatively weak Soviet government of 20 years ago, it was felt that its activities could be safely ignored; that the free play of our own democratic processes would ultimately vitiate its efforts. At the present time, however, this subversive influence is firmly entrenched in many strategic fields of American life, including labor, politics, government, the press, radio and films; education, social organizations and has penetrated even into the armed forces. Communist strength in the United States is far greater than its small membership of approximately 74,000 would indicate. This is due to its control of key positions in mass organizations; its enthusiastic well-disciplined membership and its close ties with a world power. Moreover, the Communists themselves boast that for every party member there are ten fellow travelers who stand ready, willing and able to carry out the party's work. They have shown that they can control a labor union with a small minority of its membership.

Although American Communists have relegated to the background their ultimate theoretical objective to overthrow our government by force and violence, that idea has not been abandoned. Soviet leaders constantly refer to the Red Army as "the great weapon of Communism." The use of force and violence is planned as a climax in the Communist plot. Today American Communists are paving the way for that climax which they hope will come later—what, for example, already has come to several of Russia's Balkan neighbors. That way is being paved by their treacherous activities calculated to dissipate our

strength through promotion of internal strife, and to increase Communist influence and control. Their subtle infiltration technique is analagous to a disease—a sort of political disease that is infecting the nation by boring from within. The virus of Communism has spread from few to many and may become epidemic unless publicly diagnosed and counteracted. The most potent antidote to Communism lies in concentrating public opinion against it.

The Communists have created one of the most effective propaganda machines in history. They have penetrated many reputable public opinion mediums. Their insidious propaganda is constantly fed to millions of Americans through every means by which information is disseminated. Tons of Communist literature are spread throughout the nation to anyone who will read it. They maintain their own publishing house. Communist stooges in the radio and motion picture industry are ever alert for an opportunity to insert a line of dialogue, a scene or sequence that conveys a Communist idea. Their propaganda is designed to develop discontent in the individual and thus attract him to what he is told the Communist way of life offers. Old Age Security, houses for veterans and many other desirable social improvements are advocated by Communists to hide their true aims and to induce the support of loyal citizens.

One of the most predominant Communist propaganda techniques is the "front organization." These are groups with idealistic sounding titles that are represented to the public for some logical reform objective, but actually they are organizations infiltrated by Communists or created by them for their own subtle purposes, such as promoting Soviet interests in the United States, defending Russian war and peace aims, exploiting Negroes, working among foreign language groups, and securing a favorable public reaction towards Communist views on various issues. They fraudulently induce prominent persons to serve as sponsors or speakers, using their names to aid in concealing the groups' real purposes. Front organizations are invariably controlled by a handful of Communists and follow the party line religiously and without deviation. For example, the American League Against War and Fascism was organized ostensibly to fight against military preparedness by all powers; but actually it served to defend the interests of the Soviet Union. On one occasion a rather well known clergyman was invited to speak at a meeting of that organization. He suggested that the objectives of the organization be broadened to include action against Communism as well as Fascism. His suggestion was promptly booed by the audience. Hundreds of these organizations have been born by the Communist party and buried after they served their purposes or when their real aims were exposed. The Young Communist League, for example, was buried one day and the very next day the American Youth for Democracy was born, ostensibly for the purpose of fighting juvenile delinquency through establishment of youth centers. They could more properly be termed Communist Youth Recruiting Centers. In Communist parlance these groups are frequently termed "transmission belts" since they are a means through which the party extends its influence and ideology to groups which are broader than the party itself.

Communist propagandists took full advantage of our military alliance with Soviet Russia. The estimated 15,000 Communist party members in our army during the war were told by the party to be good soldiers and fight the Fascists. However, in the army they continued to espouse the Communist ideology and aggrandize Russia's part in the war; they incited racial hatred, and strived to obtain sensitive assignments with access to vital military information. The army not only tolerated Communists, but under the shortsighted wartime policy of the War Department, which was changed only recently, it was virtually impossible to exclude Communists and fellow-travelers from sensitive duties and from positions where they could propagandize troops. Individuals with long records of Communist affiliation and activity were permitted to become commissioned officers. Attempts to bar them from commissions or vulnerable assignments promptly met with a protest to the War Department from some influential source, including left-wing labor union officials, naive but perhaps well-meaning congressmen—and even from the White House. Such protests were almost always successful.

The Information and Education Branch of the Army became so infiltrated with fellow-travelers and kindred thinkers that a congressional investigation resulted. Members of that service engage in the

orientation of troops by furnishing lecture and reading material, as well as films, radio programs and other information media —indeed a fertile field for Communists. Official army information publications used for orienting millions of troops were found to contain Communist propaganda. For example, soldiers were told in army talk No. 53 that Communist ideals "are directly opposite to the stated ideals of fascist dictatorship, and their hope is to drop the appurtenances of dictatorship in the process of democratic evolution." It was not pointed out that the so-called transitional dictatorship in Russia is still in effect after 30 years. Another indoctrination booklet No. 64 entitled "Fascism" was devoted to "white-washing" Communism and quoted lengthy passages from the Soviet constitution of 1936. It is no wonder that the American public is now confused and easily misled by Communist deception.

Communists always take a definite tactical position on every issue of interest to their cause, whether it be local, national or international—a position dictated by the party. This so-called "party line" is reflected in Communist publications and in the activities of its front organizations. Frequently it changes and switches in accordance with the current purposes to be accomplished. But despite its devious meanderings, the party line invariably reflects that fundamental principle of Communism as stated by Lenin that "The support of Soviet Russia is the duty of Communists in all countries." The twisting party line for the past decade clearly demonstrates that American Communists have consistently adhered to that injunction and supported Soviet interests, even though contrary to ours.

Prior to 1935 Communists made no distinction between democratic and fascist governments. They were all capitalistic and had to be destroyed. Later, when Hitler became a threat to the Soviet Union, the Communists supported a united front of the capitalistic democracies and Russia against the fascist nations. While Russia was allied with the Nazis under the Hitler-Stalin non-aggression pact American Communists furiously opposed our entry into what they termed the imperialistic war against Germany. They agitated against lend-lease and selective service and marched on Washington shouting "the Yanks are not coming." The American Peace Mobilization, a Communist front, picketed the White House until the day before Hitler marched into Russia. They fomented strikes and denounced industry for converting to war. Then, in June, 1941, the Nazis invaded Russia and the party line made a complete about-face. American Communists now commenced to campaign long and loud for the very same measures they had opposed so violently. They encouraged lend-lease and urged all-out support of the war effort. They now denounced industry for *not* converting to war fast enough! The American Peace Mobilization withdrew its White House pickets, became the American *Peoples* Mobilization and started the clamor for a second front. Naturally, this assisted our own war effort, but the basic Communist purpose was to help Russia—not the United States. It was simply a honeymoon of military necessity.

With the surrender of Germany that "honeymoon" ended. American Communists deposed Earl Browder, party leader, for his war-time policy of cooperation with the capitalist powers, and named as the new head of the party William Z. Foster, an old line revolutionist. The party name was changed from the Communist Political Association (its wartime title) back to the Communist Party of the United States of America, and it resumed its real revolutionary aims. Thus, the curtain was rung down on the greatest act the Communist party puppets in this country have ever staged! American Communists again burst forth in their true color. Their treachery and deception aroused the indignation of tolerant well-meaning citizens who had taken those vipers to their bosoms. Mrs. Eleanor Roosevelt severely denounced them in her newspaper column.

The party line was now directed towards supporting Soviet post-war objectives. To give Russia a free hand American Communists immediately demanded withdrawal of American troops from foreign soil. Their biggest propaganda guns were leveled towards faster demobilization, thus taking full advantage of the natural anxiety of soldiers and their families for an early return home and discharge. They deluged congressmen and government officials with letters, telegrams and petitions signed by thousands of duped citizens. Overseas, demobilization disturbances were agitated by Communists in the Army assisted by fellow-travelers on the staffs of

service newspapers. When General MacArthur removed two soldier writers from the Army newspaper *Stars and Stripes* their howls from across the Pacific were echoed through the party to Washington.

Today the party line is still whatever the Communists believe will aid Soviet Russia and weaken us. Militarily they are resisting Universal Military Training, giving support to any organization which opposes conscription on religious or other grounds; urging that atomic bomb secrets be given to the rest of the world; protesting the presence of American troops in foreign areas; and discrediting the armed forces.

Politically, American Communists seek to stir up political unrest and encourage distrust of our system of government, portraying the Soviet system as a utopia; they campaign for candidates most favorable to their views and anyone who opposes Communist interests is promptly branded a "red baiter," a "reactionary fascist," or a "disrupter" and becomes the object of their "smear" technique designed especially to deter others from challenging or exposing them. They charge that the United States is promoting imperialism throughout the world and is using the atomic bomb as a "black-jack" to gain its ends; they are demanding international trusteeships for American possessions in the Pacific, but make no mention of those occupied by Russia. They continually attack phases of our foreign policy which conflict with Soviet ambitions. For example, they campaigned vigorously against aid to Greece and Turkey by promoting mass meetings and sending telegrams and letters to exert pressure on Congress.

American Communists seek to weaken us economically by discrediting our system of free enterprise, charging that it is organized for the exploitation of the many by the few. They encourage industrial strife and through infiltration tactics can gain control of labor unions before the rank and file of members know what has occurred. The importance of this procedure is stressed by Lenin who wrote that it is necessary to "penetrate into the trade unions, to remain in them, and to carry on Communist work in them at all costs."

Socially, the Communists in this country are endeavoring to enlist strength and gain support by espousing the cause of racial and other minority groups, and publicizing their iniquities. They fan the flame of racial hatred and incite rebellion against established social conditions. Recently they have concentrated on foreign language groups whose members may have relatives in countries which Russia wants to influence. They seek to increase the party's strength and weight by uniting the various minorities under Communist leadership. They support legislation to establish further government control or socialization of industry.

The Army finally became aware of the present danger of Communism and reversed its wartime policy of tolerating Communists. Several weeks ago it published an information booklet, the cover of which shows the hammer and sickle casting its shadow over the Statue of Liberty. It tells soldiers the best way to spot a Communist in these words:

> "If a person consistently echoes the party line, he is probably a Communist.
> "If he has consistently agreed with every shift and change in the Communist press, he is probably a Communist.
> "If a person consistently supports Soviet policies, he is probably a Communist.
> "If a person consistently practices all of the above, he IS a Communist!"

A party line Communist should be distinguished from the sincere liberal who follows his own convictions whether or not they parallel the party line. Such an individual is not likely to reverse his convictions overnight to be consistent with the needs of the Soviet Union. Unfortunately, many honest patriotic citizens have been reviled as "Communists" or "dangerous fellow-travelers" merely because they happened to favor some measure advocated by the Communist party. Not only is that a grave injustice to the individual, but it adds greatly to the present confusion.

The current international situation requires that the Communist menace should be viewed essentially from the standpoint of national security. Every Communist in this country should be considered an actual or potential agent of Soviet Russia. They constitute an effective subversive network and stand ever ready to furnish to their fatherland vital military, economic, technical and industrial intelligence. Communist International representatives here well know which of the thousands of party members to call upon for specific infor-

mation or other service. Within the past few weeks a former official of the Soviet Purchasing Commission testified before a congressional committee that every responsible official of the Soviet government in the United States may be regarded as an economic or political spy. The recent Canadian spy trials loom as a grim warning of Communist penetration.

The Legislative Reference Service of the Library of Congress has just completed an authoritative analysis of Russian foreign policy. The exhaustive research project was conducted at the request of the Senate Foreign Relations Committee by the Library's objective professional researchers and analysts whose findings deserve considerable weight. They summarized the Soviet foreign policy in these words:

"The summit of Communist hopes and aspirations is, as in Lenin's time, a complete change in the world's political, economic, social and cultural aspirations, and at the base of the Soviet foreign policy lies the desire to make the world safe for Communism and Sovietism. . . .

"In their efforts to achieve their goal, the Russians are prepared to play any card available at the time and which promises maximum success in a given situation."

Serious reflection on recent international developments compels the acceptance of these views, even though they present a disturbing qustion: If the stakes become great enough, would the Russians play their ace in the hole, the Red Army—that great weapon of Communism? It is a deplorable thought, but one which we cannot safely disregard.

In the interests of national security the American people must be enabled and encouraged to penetrate the fog of Communist propaganda and deception and thus become realistically aware of what the Communists are trying to do to us. Only then will the full impact of public opinion be fully concentrated against the Communist conspiracy.

Liability For Fire And Explosion Following Accident

By Robert P. Hobson
Louisville, Kentucky

NEARLY every day we have presented for consideration and oftentimes trial the question of liability for direct damage done to persons and property through the operation of the insured's motor vehicle. These questions, while oftentimes difficult of solution and sometimes resulting in verdicts which we consider improper, do not present unusual questions of law. However, it is a case where the unusual, unexpected and almost unforeseen takes place that real trouble arises.

Last winter we were confronted with a case where our assured's trailer truck, operated on the highway in the early morning hours, struck a bridge abutment and went into the bridge, knocking a part of it down, killing the driver, the only occupant of the truck, after which the truck and trailer caught on fire. The impacts were so loud as to arouse a number of people. The state patrol and the county police were called and took charge of the situation. The neighborhood fire department was called, in an endeavor to put out the fire, but succeeded only in diminishing it temporarily.

Under the direction of the police, the tractor was pulled off at one end of the bridge and the trailer, which was loaded with a cargo of general merchandise, including ordinary household supplies, some paint and cleaning solvent, was pulled off at the other end of the bridge and placed on the side of the road so as not to block the traffic. While the wreck was on the bridge and after the crowd gathered, there were several flare-ups of fire, accompanied by what might be called explosions, and several of the empty drums were left on the floor of the bridge. After the trailer was removed from the bridge, at least two more flare-ups occurred. In the meantime, practically, if not all, of those gathered at the scene poked into the burning trailer with sticks, undertaking to get merchandise, particularly soap flakes, out of it. During all of this time the police who took charge, constantly warned the spectators to stay away from the burning truck. This

warning was given because of the several flare-ups that were occurring. The fire at times was so hot that no one could go near the trailer and most of the time was accompanied by rather high clouds of black smoke. Some four hours after the wreck, there was a sudden upsurge of fire, which scattered widely and burned a number of spectators, so that five of them died and two others were badly injured. The injured and the estates of the deceaseds have all sued the trucking company for a total of more than a half million dollars.

This is the kind of calamity that even the most prudent truck operator does not anticipate and against which he is not fully protected. It, therefore, is vital to him and his insurance carrier (which in this case has a very substantial stake) to know what their liability is. This liability must be determined upon principles fairly familiar to all of us, but the difficulty arises in applying these principles to the facts of this particular case. We must consider:

(1) Assuming that defendant's driver was negligent (and his negligence cannot be avoided when the *res ipsa* doctrine is brought into play), yet was his negligence the proximate cause of plaintiffs' loss?

(2) Was defendant negligent as to any of these plaintiffs?

(3) Assuming defendant's causal negligence, were plaintiffs guilty of contributory negligence or did they assume an open and apparent risk?

I.

Defendant's truck having struck the bridge abutment and wrecked itself, there being no intervening cause and no satisfactory explanation furnished by defendant, it must be assumed that its negligence produced the original loss and had plaintiffs been injured in that collision, their cause of action would be simple. But when we separate the original collision from the flare-up of the fire which caused the injuries sued for by a period of four hours, it remains to determine whether those subsequent injuries followed the original negligence in natural sequence. If plaintiffs had been ordinary travelers on the highway, not curiosity seekers, or had been injured upon their own property by reason of the flare-up or explosion, there would be no difficulty in determining that such injuries resulted proximately from defendant's original negligence, because the sequence of events was a natural one; but as to these plaintiffs, the sequence may well be said to be not only unnatural, but to be broken or insulated by the positive, responsible acts of the plaintiffs themselves. This test may be put upon the ground that no reasonable man would anticipate that people would congregate around a burning truck, so near to it that a flare-up of the fire, which is a usual incident of all fires, would burn them. In taking this position, it must be considered that there was no highly inflammable or explosive cargo on the trailer.

II.

The question of whether defendant was negligent as to any of these injured plaintiffs depends upon what their status was at the time of their injury. If, on the one hand, plaintiffs were in a place where they had the right to be and *defendant was under a duty to them*, then excluding the defenses of assumed risk and contributory negligence hereafter discussed, these plaintiffs could recover. But where plaintiffs are themselves performing no duty imposed upon them either by reason of their employment or on account of some public duty, then they are not entitled to recover, but must be regarded purely as volunteers to whom no legal duty is owed except not to injure them wilfully.

In the very recent case of *Glines v. Maine Central R. R.*, 52 A. (2d) 298 (N. H.), the Railroad Company was negligent in starting a fire in a dry grass field some 1500 feet from the plaintiff's mother's home. The fire was intense in heat, smoke and flame and was rapidly approaching the house when plaintiff was called by his nephew. They procured a two wheel hose cart from a nearby shed and were running with it to a nearby fire hydrant when they became enveloped by blinding smoke and the hose cart collided with a utility pole, as a result of which plaintiff was severely injured. He sued to recover for these injuries and received a verdict in the trial court, which was reversed on appeal on the ground, first, that he was a mere volunteer to whom no duty was owed by the defendant; and, second, that he assumed the risk of injury as a matter of law. The Court said:

"In the instant case however, there is no evidence that the plaintiff had any existing legal interest in his mother's property which would entitle him to rights not enjoyed by a volunteer, or impose upon him any duty to minimize the damages occasioned by the defendant's negligence. He did not reside upon the property, and there is no evidence tending to show that he enjoyed any authority with respect to it or was under any responsibility for it. No case has been called to our attention and none has been discovered, where recovery has been permitted by persons other than those having ownership of the threatened property, or some authority or control over it, whether by reason of residence on the property, employment by the owner, or such active aid and encouragement on the part of the owner as to give rise to an implication of authority to act in his right."

and, further:

"The plaintiff's injuries may fairly be said to have resulted from a risk which he voluntarily encountered. In undertaking to fight the fire, he might reasonably expect to encounter incidental dangers arising out of enveloping smoke. His injuries were directly attributable to that manifestation. If they occurred upon a public way rather than upon private property, the circumstance is not thought to distinguish this case. He was not there upon what was called in the Clark case 'the course of independent and lawful conduct,' nor did the fire interfere with his exercise of any independent right."

In *Clark vs. Boston & Maine Railroad Company,* 101 Atl. 795 (N. H.), plaintiff's declaration alleged that a fire was started as a result of defendant's negligence. Plaintiff, a fireman, attempting to put out the fire was injured and sought to recover upon the grounds that the fire was caused by defendant's negligence, and plaintiff, being injured in attempting to extinguish the fire, was in the natural causative line of this negligence, and that plaintiff, acting in the course of his duty, as a fireman, was entitled to recover even though the danger to which he was exposed was obvious.

The trial court sustained defendant's demurrer to the declaration and its judgment dismissing plaintiff's cause was affirmed on appeal upon the ground that, conceding that there was a natural sequence between defendant's negligence and plaintiff's injury, yet that natural sequence was not enough to fasten liability upon defendant. In order for the defendant to be responsible, there must be not only the natural sequence or proximate cause between defendant's negligence and plaintiff's injury, but another element must be present, to-wit: the defendant must have breached a *legal* duty owing to the particular plaintiff who is injured.

In this case the court points out that the duty imposed upon railroads by statute not to start fires is a duty owing only to those who may be directly affected by such fires, and as to all others, including the public generally, it is a moral duty alone, and for the violation of such moral duty, there can be no recovery. In denying liability and affirming the judgment of the lower court, the Supreme Court of New Hampshire said:

"The question here is not one of proximate or remote cause, but whether the defendant owed any duty at all to the plaintiff—whether, apart from his contract of employment it stood in any legal relationship to him, however remote. It seems to us that it did not. Neither the plaintiff nor his property was in a position to be injured by a fire set by the defendant. His connection with the fire arose solely from his own act in coming into contact with it after it was set."

In *Smith vs. Twin States Gas & Electric Company,* 144 Atl. 57 (N. H.), plaintiff's decedent, Chief of the Dover Fire Department, was killed by a gas explosion when he went into a building to ascertain whether escaping gas had found its way into the basement. There was a silght odor of gas in the basement and when the chief struck a match to locate it there was a terrific explosion, as a result of which he was killed. The defendant's negligence consisted of its failure to repair a break in its pipe line which had existed for some time but this break was some distance away from the building in which plaintiff's decedent was killed, and there was no actual notice to plaintiff's decedent of the existence of danger in the basement. He only knew that there was gas escaping from the break in the main and was looking for places to which the escaping gas had found its way.

The trial court directed a verdict for the defendant on the ground that it owed plaintiff's decedent no duty and that its negligence was not the proximate cause of his death. In reversing this judgment the Supreme Court held:

1. Defendant was negligent in failing to stop the gas leak after notice of its occurrence.

2. It knew, or should have known, that the escaping gas would find its way into any available conduit.

3. The danger thus created was not open and obvious and hence was not one to which plaintiff's decedent voluntarily exposed himself.

4. The questions of contributory negligence and assumption of risk were for the jury.

It will be noted that the distinction between the Clark and Smith cases is that in the former the danger was open, obvious and knowledge of its existence was inescapable, while in the latter, the danger, though suspected, was hidden, and at least the jury had the right to conclude that plaintiff's decedent acting reasonably, did not know of it.

It may be thought that a contrary rule is announced in the case of *L. & N. Railroad Company vs. Smith's Administrator,* 203 Ky. 513, 263 S. W. 29, but a proper analysis of that case and the authorities relied on therein will disclose a clear distinction. A railroad bridge over the river near Bowling Green, Kentucky, had been partially destroyed by a wreck, and in order to remove the damaged portion, the company decided to blow it out with dynamite. When the word got around town that the dynamiting was to be done, a large crowd gathered to witness it and the employees of the railroad roped off this crowd some distance away from the wrecked bridge. While the crowd was there, the dynamiting was done with the result that pieces of steel were thrown into the crowd, killing Smith. The railroad company defended the administrator's suit upon the ground that he assumed the risk of injury, and being a volunteer, no duty was owed to him.

The court denied both of these contentions saying that the first was a question of fact for the jury and the second failed as a matter of law because there was not only a causal relation between the defendant's negligence and plaintiff's injury, but that defendant's act was a willful and deliberate one as distinguished from a mere negligent or careless act, and as recognized in the Clark case, supra, where the defendant's act is an intentional one, it is liable for an injury done even though the injured person be a bare licensee.

In the Glines case, supra, the injured was a mere volunteer and the defendant's negligent act was not deliberate or intentional.

In Smith vs. Twin States Gas & Electric Company, supra, although defendant's act was not deliberate or intentional, the injured was held not to be a volunteer.

III.

Assuming only for the purpose of this discussion that defendant owed to plaintiffs a legal duty which it did not perform and that, as a result of defendant's negligence, plaintiffs were injured, there yet remains a substantial hurdle for plaintiffs to surmount before they can recover. A fire is always fraught with danger. One who gets too close to it is sure to be burned. He may not close his eyes to the danger or intentionally abandon reason to impulse and, after he is injured, claim that he did not appreciate the danger. The law holds normal people accountable for normal reaction and will not excuse the taking of risks where ordinary care demands that they be not taken. Fortitude is said to be the first of the virtues, but it may properly be added that prudence comes before fortitude; since without prudence, fortitude is madness.

In *Cleveland C. C. & St. L. Railway Co. vs. Ballantine,* (1898), 84 Fed., 935, the train of the defendant company ran upon a siding where a switch had negligently been left open and collided with a train of 18 oil tank cars filled with oil, and fire had ensued. The colliding train was removed, leaving 8 oil tank cars on fire. The smoke was dense and black and could be seen, together with the flames, for quite a distance, thereby attracting a large number of people. While not stated, apparently the fire continued for several hours in the forenoon during which time the servants of the company warned the crowd that there was danger of explosion.

The plaintiff, 17 years old, came to the scene, observed for an hour, left and returned later and, while walking close to the tracks not far from the burning tanks, was requested by a farmer to help put out stock pens. He was handed a spike ham-

mer by a servant of the company. After working at this a half hour one of the tank cars exploded, injuring the plaintiff. Verdict was had for the plaintiff and the Seventh Circuit Court of Appeals reversed the judgment, being of the opinion that a directed verdict in favor of the defendant should have been given. The case turns upon the ground that—

"The danger was obvious. There was no concealment of explosives. The peculiar construction of the tanks declared the quality of their usual contents."

This, the Court says, is a matter with which any American schoolboy is acquainted, and that the scene itself was a signal of danger, with the hissing and roaring and escaping gas being a sufficient warning. The Court found that everything was done that could reasonably be demanded, with general and repeated warnings of the defendant, and that the company was not under any duty to engage a police force to drive the crowd from *its premises.*

As to the plaintiff's assisting in taking away the stock pens, the Court stated he was a volunteer, but, they continue, even assuming he was a servant of the company, they found that the company did not fail of any duty, because the danger was obvious.

Yockel vs. Gerstadt (1928 Md.), 140 At. 40, seems directly in point. Here the plaintiff was driving down the highway where he was hailed by several persons, presumably one being the defendant. The defendant's one-ton truck, loaded beyond its capacity, had 15 minutes or more previous to this, been turned over, wheels in air, and burning. The plaintiff joined the crowd in the vicinity and while he was reading off the license number of the wrecked truck the gasoline tank exploded, injuring him. The owner of the truck said nothing about the dangerous condition, but the plaintiff stated he saw the fire but not at the gasoline tank, and that some of the crowd was standing closer to the truck than he was. Everyone testified that the fire was obvious and that the plaintiff had been at the scene about 15 or 20 minutes before the explosion occurred and the truck was burning all the time.

In upholding a directed verdict for the defendant the Court says that:

"The law declares a man negligent who comes in contact with an open and obvious danger, if he does not use such care as an ordinarily prudent and intelligent man would use under similar circumstances. In such a case the law regards the injured party as the author of his own injury, even though the injured party be invited upon the premises by the owner or occupant."

And here found that an ordinarly prudent man would not have approached this truck so near as to be injured by an explosion of the gasoline tank, and that negligence precludes recovery by him, because here the evidence shows that the plaintiff was an operator of automobiles and automobile trucks; that he was of mature age, and that he approached the overturned truck at a time when the peril of explosion was obvious—

"He either did not heed the warning of danger which his senses must have conveyed, or else determined to assume the risk incident to his position. In either event, he cannot recover."

The Supreme Court of Minnesota considered this question very carefully in *Wiseman vs. Northern Pacific Railway Co.,* 7 N. W. 2nd, 672, (1943-Minnesota). The plaintiff was injured by a crowd of spectators in a stampede away from the explosion of a gasoline tank car, while a spectator on a public highway witnessing a fire caused by a wrecked train, which was wrecked as a result of the negligence of the defendant railway company. The train was wrecked at 2:00 in the morning. However, the wreckage and fire were confined entirely to the premises of the defendant company; it was plainly audible and visible for many miles. The plaintiff was aroused from her bed by the noise of the wreck and came to the scene of the accident. Defendant company gave no warning to the spectators of the dangerous accident.

The Court sustained a demurrer to the petition, even though the plaintiff had alleged that she did not see or know that there was a gasoline tank car. The Court stated that if she had remained in bed no injury would have occurred to her and, except for the fire, the original negligence causing the wreck had spent itself before she arrived on the scene. The fire in the explosion alone did not endanger

her as a spectator, but she was injured by the conduct of the crowd; so that the plaintiff could not recover unless defendants were negligent for failure to warn of the danger of the explosion so that she could protect herself against the conduct of the other spectators. In affirming the case the Court said the danger of the explosion must have been apparent to everyone, quoting the *Big 4 vs. Ballantine case,* and even though she alleged she had no knowledge of the presence of the tank car, the specific facts in the pleadings show that she had such knowledge and the general denial is of no value and, therefore, the Court concludes that she had knowledge of the danger of explosion. Further:

> "The purpose of a warning is to apprise a party of the existence of danger of which he is not aware to enable him to protect himself against it; but where the party knows of the danger, a warning would serve no useful purpose since there is no duty to warn against risks which are open and obvious."

Where there is such an obvious danger, the defendants were not negligent for failure to warn the plaintiff.

A very interesting illustration of this principle is found in *McLeod Store vs. Vinson,* 281 S. W. 799 (Ky.) Defendant, operating a department store, advertised that on a certain day it would conduct a guinea race, whereby several guineas were turned loose from the top of its store and prizes were given to the persons returning the guineas to the store. Plaintiff, a 17-year-old boy, joined the crowd in the street and courtyard in front of the store, and when the guineas were turned loose the crowd broke and ran in pursuit of them. In this rush plaintiff was knocked down and sustained a broken leg. A verdict and judgment for him in the trial court were reversed on appeal, the Court saying:

> " 'One who knowing and appreciating a danger, voluntarily assumes the risk of it, has no cause of complaint against another who is primarily responsible for the existence of the danger. As between the two, this voluntary assumption of the risk absolves the other from any particular duty to him in that respect, and leaves each to take such chances as exist in the situation, without a right to claim anything from the other. In such a case there is no actionable negligence on the part of him who primarily is responsible for the danger.' "

It is, therefore, submitted that, even though defendant was negligent in the first instance, in causing its truck to collide with the bridge, yet that negligence was not the proximate cause of the injuries to plaintiffs because each of them was a volunteer in coming to and about the burning truck; and because the danger incident to the burning truck was obvious to any person of ordinary intelligence, each of these plaintiffs was guilty of contributory negligence as a matter of law and assumed the risk which brought about his injury.

Report Of The President

AT THE 1941 Annual Convention of our Association held at the Greenbrier, White Sulphur Springs, West Virginia, you graciously elected me as a member of the Executive Committee to serve a term of three years. My tenure in office was extended to five years because wartime conditions made it impossible to hold conventions in the years of 1942 and 1945.

At our 1946 Annual Convention held at Galen Hall, Wernersville, Pennsylvania, you singularly honored me by elevating me to the highest office of this Association, and I shall always be deeply appreciative of that great honor.

I must confess that I have always been a little disturbed at the provision of our By-Laws which specifically requires that "The President shall deliver an address at each meeting." That mandate spares neither you nor the President from a substantial compliance with its terms. However, I feel and believe that the requirement is proper, because when a man has devoted a period of his life to the services of the Association he has, of necessity, accumulated certain experiences and formed certain opinions which may be of some value to you members as well as to his successors in office.

It is with this thought in mind that I should like, as your retiring President, to give you an account of my stewardship, and I feel that I will be adequately fulfiling my duty by recalling to you a few of the historical facts about our Association and discussing with you the activities and problems of the Association since the last Convention.

As you know, our Association was founded in 1920 at Atlantic City, New Jersey. Through over a quarter century of existence, our Association has seen insurance become increasingly important, not only to business generally but to practically every individual. Our Association owes its existence to the growing importance and growing complexity of insurance and insurance law. Since its inception it has had under consideration many subjects of vital interest in the field of insurance law, and I feel that through the free interchange of suggestions and ideas in committee work and otherwise, that we have better qualified ourselves to serve our insurance clients. As you know, our members have written many articles on matters of interest to practicing insurance lawyers which have been published in our quarterly publication, Insurance Counsel Journal, which I consider the most important of all the ties that bind our Association together. For that reason, in reporting to you, the Journal will be my first subject.

Journal

After each annual convention from 1928 to 1933 a Year Book was published containing convention proceedings. The Insurance Counsel Journal was the brain child of our present Editor, George Yancey, and he is entitled to the entire credit for its origination. At the 1932 Convention at White Sulphur Springs, Mr. Yancey, then President of our Association, recommended the publication of such a journal, the 1933 Convention in Chicago adopted the recommendation, and the first issue appeared in April, 1934. In his annual report to the Association in October, 1934, President Yancey stated:

"Your officers have felt for some time that we should publish a Journal. This matter was considered immediately after the adjournment of our meeting in Chicago by the Executive Committee and again at the mid-winter meeting of the Committee. The Committee, after limiting the cost of the publication, designated me as compiler, editor, publisher and mailing clerk for this experiment. The experiment has been made by the issuance of two copies of the Journal. I am not particularly proud of it, nor have I any apologies to make. I believe it is a start in the right direction. I recommend that the Journal be given consideration at the open forum, and that your Executive Committee, to be elected at this meeting, provide ways and means for the continuation of the Journal and fix the responsibility for its publication."

The Journal has continued its high standards through the years. There will be five issues published this year of 1947, the fifth issue being an index to all of our Year Books and Journals for the past eighteen years. This Cumulative Index, which was delivered to you early this year, was prepared by the West Publishing Company as a public service to members of our Association and comprises a topical index, an author index, and an index to committee reports.

I am sure that the Journal and Index have proved to be of immeasurable value as a working tool to the insurance world and to lawyers and others who are faced with problems in this field.

How little we realize, when we read and enjoy the Journal, the immense amount of time required in the planning and publication of just a single issue. The preparation of these Journals and the Cumulative Index over these fourteen years is plain drudgery.

During all these years we have had only one editor, and he has done a superb job. He has been untiring in his efforts on behalf of the Association and no one could hope to surpass his accomplishments. I might say that the editor receives no salary or compensation for his efforts and his sole reward must be found in a hard job, exceedingly well done, and in the success of the Journal.

I know that you need no further words from me, ladies and gentlemen, to tell you that our esteemed Editor Yancey is tired—very, very tired—and he has asked to be relieved of his duties. Do you blame him?

It is with reluctance that the Executive Committee is compelled to accept his resignation and take the necessary steps to arrange for a successor. To that end I have appointed a committee to study, consider and report to the Executive Committee

on the further handling and publication of the Journal. The three men whom I have appointed to this committee have always manifested a keen interest in the Journal; they are Henry Nichols, Chairman; Wayne Stichter and Clarence Heyl.

At the Executive Committee meeting last evening this committee discussed this subject and there will be further discussion on the floor.

The Journal belongs to you. Your officers need your help and welcome your suggestions.

Open Forums

My next subject concerns Open Forums which are to be held tomorrow. In this connection I refer you to page 6 of your program which lists the topics for discussion.

The Executive Committee has been extremely gratified at the interest shown in Open Forum discussions and as a result we are devoting the entire second day of the Convention to such discussions.

We trust this innovation will meet with the approval of and be of great benefit to everyone.

There will be three Open Forum discussions under the over-all supervision of Wayne Stichter, a member of the Executive Committee.

1948 *Convention Site*

My next subject pertains to the location of the 1948 Convention. A committee consisting of Pat Carey, Chairman, Dunc Lloyd and Al Christovich, has explored every corner of this country for a suitable site for that Convention. The difficult part in selecting such a site is that we must find a resort hotel large enough to accommodate at least 500 guests. We are told that there are only about half a dozen places in the country that can accommodate that many people during Labor Day week. If any member has any particular place in mind which he feels meets our requirements, I know the committee would welcome his suggestion. It would also welcome any suggestions about returning to the Monmouth in 1948. Other places under consideration are the Ocean House at Swampscott, Massachusetts; French Lick, Indiana; the Broadmoor at Colorado Springs, and last, but not least, remembering with the greatest pleasure conventions held in years past at the Greenbrier Hotel, at White Sulphur Springs, West Virginia, we have been deluged with requests from our membership to return to that delightful spot. (Applause). Pat Carey will speak on this subject later on this morning.

The Convention site is a matter of great concern to everyone, and the committee in charge of the selection of that site will welcome any and all suggestions from you.

President-Elect

My last subject is submitted to you for your serious consideration. No action can be taken on it at this Annual Convention. In the hope of increasing administrative efficiency, it is my recommendation that you create the office of either President-Elect, Executive Vice President or a similar office, the name of which is not important, the all important thing being the duty that would be imposed upon the new office. In my opinion, our future Presidents should have one year to prepare themselves, not only for their new office, but to enable them to make their committee appointments prior to their induction into office, thereby providing the various committees the opportunity to meet during the annual convention at the very beginning of their tenure of office.

Next Saturday, almost at the moment of adjournment, you will elect a new President. No one knows at this time who that new President will be. It is most unfair to expect him, within the few minutes that elapse from the time he is elected until the Executive Committee meets, to develop a working organization. After Saturday's session the new President's next meeting with the Executive Committee is not until the Mid-Winter meeting, usually held in January. In the meantime, however, he will meet with the Secretary and appoint his committees.

Please understand that I am not critical of anyone because no one is to blame for this situation. It is simply a condition which I suggest needs to be remedied now, because under our present by-laws our committees function only 9, 10 or 11 months instead of 12. The larger our Association becomes the more apparent is the lag. We can no longer afford to permit such a lag to continue, as it is definitely not for the best interest of the Association.

After working as President under our by-laws for the past year, I feel it my duty to recommend to your new President that a committee study this suggestion and report their findings to the Executive Committee at its Mid-Winter meeting next

January. To accomplish that end I am going to request the new President to appoint such a committee when the Executive Committee convenes on Saturday.

The President-Elect or whatever name you select, would succeed to the presidency at the close of the annual meeting the year following his election. The President-Elect would act for the president in his absence or disability. If the office of President should become vacant, the President-Elect would succeed to the presidency.

Under our present by-laws the death of the President would leave the Association rudderless. True, we have three Vice-Presidents, none of whom outranks the others, and no one is authorized to carry out the duties of the President until authorized to do so by the Executive Committee.

The suggestion of creating the new office of President-Elect does not contemplate increasing the total number of officers of our association because by reducing the number of Vice Presidents from three to two the number would remain unchanged.

I cannot over-emphasize the advantages of a President-Elect in expediting the administrative matters, especially in view of the fact that it affords a splendid opportunity for new committees to discuss their problems at the Annual Convention rather than months later by correspondence. Some committees are handicapped because of their inability to get organized and carry on their work without personal contact.

I will not burden you further on this subject except to say that I have collected data from many organizations similar to ours which have already the type of office which I am now suggesting to you. Of course, I shall be very pleased to pass this data along to our new President and his committees.

Now I have brought you these facts merely for your consideration. I do know that the members of your Executive Committee will welcome your views in this matter, so between now and the mid-winter meeting please cooperate with us by letting us have the benefit of your suggestions.

This Association has had an unusually successful history over the years. It has not only assisted us in becoming more proficient in the practice of insurance law but has also enabled us, as I firmly believe, to render a substantial service to the insurance companies whom we represent, and to insurance interests generally.

It is my sincere belief that this Association has attained a position from which it can exert a tremendous influence upon the field of insurance law. I am certain that each of you is conscious of the value of the Association to the legal profession generally, to insurance companies, and to the public at large. I say to you that we can all be proud of the International Association of Insurance Counsel. The splendid results accomplished in the past attest to what can be accomplished in the future through the continued cooperation and active participation of all who are interested in insurance law.

During my tenure in office I have been keenly aware of the high responsiblities with which you entrusted me. In closing I should like to express my deep appreciation for the privilege of having served you during these past six years. May I take this opportunity to express my sincere gratitude to the members of the Executive Committee and the various special committees for their untiring efforts and cooperation. To them should go full credit for any progress which our Association has made this past year.

Report Of Memorial Committee

IT HAS been said that "God gave us memory so that we may have roses in December." As we pause for a brief moment from the activities of this convention to let the brush of memory paint for us the faces and figures of those whose physical presence helped to enrich and inspire these gatherings in the past we may well rejoice in the thought that our own lives are the richer for the recollections they bring to our minds. Although they are with us only in memory they have left an indelible impress in the hearts and minds of their breathren in this Association as well as in the communities which they adorned by the character of their lives and their work. As Wordsworth said

"We will grieve not, rather find
Strength in what remains behind;
In the primal sympathy
Which, having been, must ever be."

Since our last annual meeting the following members of this Association have passed into the great beyond:

EDMUND H. ABRAHAMS Savannah, Georgia	EDWIN C. MARKEL Philadelphia, Penn.
WAYNE BANNISTER Denver, Colorado	CHARLES C. MILTON Worcester, Mass.
ALLAN E. BROSMITH Hartford, Connecticut	DAVID A. MURPHY Kansas City, Missouri
ROGER C. BURTT Cleveland, Ohio	W. F. McMURRY Paducah, Kentucky
ANDREW D. CHRISTIAN Richmond, Virginia	E. W. PETTUS Selma, Alabama
RICHARD JOSEPH DUNN Chicago, Illinois	W. D. PRUDEN Edenton, North Carolina
WILMER T. FOX Jefferson, Indiana	HENRY I. QUINN Washington, D. C.
FRED W. GENRICH Wausau, Wisconsin	D. CURTIS ROBERTSON New York, New York
ROBERT C. GRELLE Madison, Wisconsin	HARRY E. RODGERS Grand Rapids, Michigan
FRANCIS M. HOLT Jacksonville, Florida	RALPH ROSEN Chicago, Illinois
CLIFFORD S. LYON Holyoke, Massachusetts	WILLIAM M. RYAN Houston, Texas
W. H. SADLER, SR. Birmingham, Alabama	CHARLES S. WHITING Mitchell, South Dakota
JOHN MORGAN STEVENS, JR. Jackson, Mississippi	E. H. WOOTTON Hot Springs, Arkansas
WILLIAM J. TRUSCOTT Seattle, Washington	F. J. YOUNG Cleveland, Ohio

Not included in this list are the names of any except active members of this Association. But those of us whose memory goes back over the years and who recall the gracious First Lady of the Association during the years 1938 and 1939, and remember how much her presence added to the pleasure of these gatherings, will join in the sad realization that Maurine Crawford, the wife of our dear friend and former President Milo H. Crawford, is now among those who will live only in our memory.

As a slight token of our sorrow at the passing of these, our friends and associates, let us all rise and stand in silent tribute to their memory.

Elias Field, Chairman
Milton L. Baier
Will R. Manier, Jr.
Arthur G. Powell
John M. Slaton

Report
Automobile Insurance Law Committee

THE members of the Automobile Law Committee have been in communication with each other since the Committee membership was announced, for the purpose of selecting a project that would be of interest and of value to the members of the Association.

Legislatures have met in regular or special session in every state since January 1, 1947. Whenever and wherever legislatures convene in regular session a multitude of bills are introduced that affect some phase of automobile insurance law.

The regular sessions now have adjourned, and the Committee has concluded that a compilation of the legislation enacted in 1947 affecting automobile insurance law would be of interest and value to the membership, not only for the purpose of bringing new laws to their attention, but also to reflect the trend in legislation.

The members of the Committee have reviewed the Bills that have been approved and have listed those that affect automobile insurance attorneys and automobile insurance representatives. Rating bills have not been included because they affect the insurance industry generally. The Committee does not pretend that this report includes every bill that might affect automobile insurance law remotely, but all bills of importance are listed.

ALABAMA

Financial Responsibility Law—A Financial Responsibility law was passed which provides for the suspension of operators' license, chauffeurs' license, and all registration certificates of any person upon a proper showing that such person has failed to satisfy a judgment within thirty days, or has been convicted or has forfeited bond in certain offenses. The Bill provides that the licenses shall remain suspended until proof of ability to respond in damages has been posted.

ARIZONA

No legislation was passed that affects automobile insurance law.

ARKANSAS

Venue—Action for damages to personal property may be brought in county where accident occurred *or* in county of residence of person who owned the property when cause of action arose (S. B. 148-1947 Laws, P. 195).

Venue—Action on automobile fire policy may be brought in County where loss occurs *or* in county where assured resides at time of loss. (S. B. 142, 1947 Laws, p. 213).

Torts of Municipality, etc.—Direct Action Against Insurer — Where municipality, school district, sub-division of state, etc. is not liable in tort, if it carries liability insurance the injured party may maintain a direct suit against the insurer. Such suit to be brought in county where injury or damage occurs *or* where plaintiff resided at the time of such injury or damage. (H. B. 122-1947 Laws, p. 21).

Actions Against Certain Non-Residents—*Note*: This Act does NOT mention non-resident owners or drivers of motor vehicles, and does not purport to amend any existing laws. It relates to non-resident persons, firms, partnerships or corporations doing business in Arkansas without being legally qualified to do so. (S. B. 226—1947 Laws, p. 399).

Civil actions against such non-residents may be brought in county where accident occurred *or* in county where person injured or killed resided at time of injury. Process may be served in any county where defendant, or any of them, may be found or by service on the Secretary of State as provided therein.

School Bus Operators—Who may not be permitted or employed to operate privately or publicly owned school bus: No person physically defective or of unsound mind, known to be a habitual drunkard, or of immoral habits, or who has been convicted within the past five years of operating a motor vehicle in a reckless manner, or while under the influence of intoxicating liquor or narcotic drugs, who has a general reputation of being a fast and reckless operator, or is less than seventeen years of age.

Seventeen-year-old drivers must have had at least two years experience as regular licensed drivers of motor vehicles, and must attend training course and pass physical examination and tests on traffic laws, etc. under supervision of State Highway Patrol or State Department of Education. (S. B. 339—1947 Laws, p. 479).

CALIFORNIA

Financial Responsibility Law—A new Financial Responsibility Law of the New Hampshire type, was enacted which becomes effective July 1, 1948.

Speed Regulations—Assembly Bill 145, Chapter 788, Laws 1947, gives authority to the Department of Public Works to increase the speed limit in a 25 M.P.H. zone, and to decrease the speed limit in a 55 M.P.H. zone, when justified after an engineering and traffic investigation. Same authority is given to local authorities within cities. Bill also provides for a 25 M.P.H. speed limit in zones where a road or highway is under repair or construction. Also restricts speed of trucks equipped with pneumatic tires to 40 M.P.H. and trucks with solid tires to speeds between 12 M.P.H. and 25 M.P.H., depending upon weight, and speed of vehicles with metal tires to 6 M.P.H.

Traffic Regulations—Assembly Bill 168, Chapter 875, Laws 1947, amends certain sections of the Vehicle Code. Section 529 of the Code is amended by this Bill so as to define when it is lawful for one motor vehicle to overtake and pass another vehicle on the right.

Section 533 of the Vehicle Code is amended to prescribe the duty of the driver of a motor vehicle when meeting or overtaking a school bus. It provides that when a driver meets or overtakes a school bus that is stopped on the highway for the purpose of receiving or discharging passengers, the driver must bring his vehicle to a stop, and after stopping he may proceed past the school bus at a speed that is reasonable and proper, but in no event in excess of ten miles an hour. It also provides that every school bus must be identified plainly by a sign with letters not less than four inches in height, except that on any school bus purchased or repainted after the effective date of the Act the words shall not be less than eight inches in height.

Section 541 of the Vehicle Code is amended to provide that no vehicle shall make a U turn in a business district except

at an intersection. This Section is also amended to provide that no vehicle shall make a left turn in a residence district when another vehicle is approaching from either direction within 200 feet, except at an intersection.

Section 544 is amended to provide that turning movements cannot be made without first giving an appropriate signal, and that the signal must be given continuously for fifty feet before the turn.

Section 560.1 is amended to provide that the driver of any motor vehicle driving over or upon a sidewalk shall give the right-of-way to pedestrians.

Section 564.1 was amended to provide that no person shall stand in a roadway for the purpose of soliciting a ride.

Section 596.5 is amended to provide that no person shall ride upon any portion of a vehicle not designed or intended for the use of passengers. The amendment does not apply to an employee in the discharge of his duty or to persons riding in vehicle bodies in space intended for any load.

Section 596.6 is amended to provide that no person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is safe to do so, and that the door shall not be left open longer than necessary to load or unload passengers.

Authority of Executors and Administrators—Senate Bill 28, Chapter 527, Laws 1947 is an Act to add Section 578-A to the Probate Code. The Section provides that "an executor or administrator shall have power, with the approval of the court which ordered his appointment, to compromise and settle all claims or rights of action given to him by any law for the wrongful death or injury of the decedent, including any action brought by him in attempting enforcement thereof. Such power shall include the giving of a Covenant not to Sue."

COLORADO

Financial Responsibility Law—The Financial Responsibility Law is amended to require security following an accident, thus bringing the Colorado law in line with the model safety responsibility law. (S. B. 76—1947 Laws, p. 73).

Lights and Reflectors—(H. B. 351—1947 Laws, p. 111). Requirements for all vehicles designed or used for transportation of property or persons, except buses operated entirely within municipalities when interiors are illuminated:

Clearance Lamps—Vehicles more than 80 inches wide at any part to carry two amber lights on front, one at each side, visible for 500 feet, and two red lights on rear, one at each side and visible for 500 feet. The rear clearance lights are in addition to regular rear red lamp. All clearance lamps to be not more than one inch from extreme outside edges of vehicle and not more than 72 inches nor less than 36 inches above the level on which vehicle stands. Such lamps to be of type approved by Department.

Side Marker Lamps—Vehicles exceeding 30 feet overall length to have four side lamps—one amber light on each side near front and visible for 500 feet, one red light on each side near the rear and visible for same distance to side but not to be visible from front of vehicle. Such lamps to be not more than 72 inches nor less than 36 inches above level on which vehicle stands, and shall be of type approved by Department.

Clearance Reflectors—Vehicles over 80 inches wide to have four reflectors—two amber ones on front, one at each side, not more than one inch from extreme outside edges of vehicle. Two red reflectors on rear, one at each side and not more than one inch from extreme outside edge of vehicle. All must be not more than 60 inches nor less than 24 inches above level on which vehicle stands. Either or both rear reflectors may be incorporated within tail lamps so located. Trailer need not have front reflectors when operated in conjunction with properly equipped vehicle, providing the towing vehicle is of equal or greater width than the trailer. Reflectors to be of type approved by the Department.

Other Vehicles—Animal drawn vehicles and others not specifically required to be lighted by section 241 (b), shall, at times specified in Section 242, be equipped with lighted lamps or lanterns on front and rear or at least one reflector on rear—such lamps and reflectors to be visible for 500 feet.

Signal Lamps and Devices—Every motor vehicle to be equipped with a stop light in good working order at all times and automatically controlled by brake, emitting

red light visible for 500 feet but shall not project a glaring or dazzling light. The stop light may be incorporated with tail lamp.

Prohibited Lights—No lights or reflectors permitted except specifically provided. No red light to be visible from directly in front of vehicle. Only white or amber lights to be visible from front and only red light to be visible from rear, except that the rear license plate illuminating light and back-up light shall be white. Flashing lights prohibited except for indicating right or left turn. All lights and reflectors to be of type approved by Department. (H. B. 351—1947 Laws, p. 111).

Livestock—Unlawful to knowingly permit animals to graze or run at large on streets of unincorporated towns or additions, or in any highway that is fenced on both sides by a three barbed wire fence with posts approximately 1½ rods apart, or any other equally well constructed fence of like efficiency. Owner or driver of vehicle killing or injuring animals so running at large shall not be liable for damages unless the killing or injury be wilful, malicious or the result of gross negligence or recklessness. Act does not apply to animals having person in charge, while being driven on public highways, or where range animals are being ranged on their usual range or allotments, and where they have broken through drift fences or cattle guards in the immediate vicinity and are there without owner's knowledge. (H. B. 640—1947 Laws, p. 421).

CONNECTICUT

Motor Vehicles—Voluntary Inspection—Amends Sec. 617c of the 1945 Supplement to the General Statutes by deleting the provisions authorizing the commissioner of motor vehicles to establish a compulsory system of semi-annual inspection of equipment of motor vehicles, and by providing instead that said commissioner may establish a system of *voluntary* examination of equipment of motor vehicles. Provides that such examination may be made by licensed automobile dealers and repair garages which have been aproved by the commissioner for such purpose. (Public Act 357—Effective October 1, 1947).

Motor Vehicles—Financial Responsibility—Liability Limits—Amends the Financial Responsibility Law to increase the limits of the policy furnished as proof of financial responsibility from 15/15 and 1 to 20/20 and 1. (Public Act 299—Effective October 1, 1947).

DELAWARE

Limitations—One year on actions for personal injuries. Pending suits not affected and law allows six months from passage to file suit on cause of action already accrued and not barred by former law (S. B. 123—1947 Laws, p. 179).

Limitations—Three years on actions for damages caused by injury unaccompanied by force or resulting indirectly from defendant's act. (H. B. 72—1947 Laws, p. 143).

Limitations—On causes of action arising outside the State—time limited by Delaware law or time limited by the other state—whichever is shorter. Delaware law applies where plaintiff resided in Delaware when cause of action accrued. (H. B. 121—1947 Laws, p. 335).

Declaratory Judgment Act—(H. B. 269—1947 Laws, p. 327).

Subpoena duces tecum—Provision for, where depositions being taken in Delaware. (H. B. 174—1947 Laws, p. 309).

Conduct At Scene Of Accident—Where accident results in apparent damage to property, driver shall immediately stop. If no damage to person or property of another, he need not stop but is required to report his own damage. (S. B. 43—1947 Laws, p. 59).

Overtaking and Passing—Must not drive on left hand half of road in overtaking and passing another vehicle when approaching or when upon the crest of a grade, or a curve where the driver's view is obstructed within such distance as to create a hazard if another vehicle might approach from the opposite direction. State Highway Department authorized to determine portions of highway especially hazardous in that respect and may designate such zones by signs or markings, and all drivers shall observe the directions thereof. (H. B. 94—1947 Laws, p. 301).

Obligation to Blind Persons—Driver approaching wholly or partially blind person carrying a white cane or walking stick, or one white tipped with red, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to such person. (H. B. 199—1947 Laws, p. 87).

Night Driving-lights, etc.—Driver must

dim or depress headlights when approaching oncoming vehicles but lights must still be sufficient to render clearly discernible a person 75 feet ahead under normal conditions. This provision not applicable to acetylene or similar gas lights.

Truck over 80 inches wide not to be operated outside business or residence district from a half hour after sunset to a half hour before sunrise, unless equipped with at least three flares, electric lanterns, or other devices capable of producing continuously three warning lights or signals each visible from at least 500 feet for at least eight hours. Red reflectors of a type approved by the Motor Vehicle Commissioner may be carried in place of flares, etc. If such truck and its lighting equipment become disabled during such period and cannot be moved off the main traveled portion of a highway outside a business or residence district, the driver or person in charge of it shall cause flares, lanterns, reflectors or other signals to be lighted and placed upon the highway, one approximately 100 feet in advance of the truck, one approximately the same distance behind it, and the third upon the roadway of the vehicle. If the truck is transporting inflammables, three red reflectors may be so placed as to afford warning in place of such other signals, and no open flares shall be placed adjacent to the vehicle. (S. B. 24—1947 Laws, p. 51).

It is unlawful for any person to drive or move any vehicle upon a highway with any other than a white light thereon visible from directly in front thereof, but amber lights as provided in sections 128 (e) and 129 (e) are permissible. This section does not apply to police, fire patrol vehicles or ambulance. (S. B. 46—1947 Laws, p. 129 amending Sec. 135 of Ch. 165).

Minor's Operating License — Operator's license may be granted to minor under 18 provided application is signed, (a) by the father, if living in Delaware and the minor resides with him; (b) by the mother, if the father is not living in the state and the minor resides with the mother; (c) by the minor's guardian duly appointed under Delaware law, if neither the father nor mother is living in the state; (d) by the minor's employer or by any suitable person acceptable to the Motor Vehicle Commissioner, if neither the father nor mother is living in Delaware and the minor has no such legal guardian. (S. B. 53—1947 Laws, p. 135).

Dual or Multiple Lane Highways—Following Acts are unlawful: To drive vehicle over, upon or across any curb, central dividing parkway, grass plot or other separation or dividing line between a dual or multiple lane highway; to make a left or U turn except at designated crossovers; to drive on such highway except to the right of the central dividing curb, separation, parkway, grass plot or line; or to drive or walk on one-way highways except in the direction fixed by the State Highway Department. (S. B. 167—1947 Laws, p. 277).

FLORIDA

Financial Responsibility Law—Effective October 1, 1947. Requires proof of responsibility where accident involves personal injury or $50.00 property damage. Provisions for suspension of licenses, etc. not applicable to operator or owner where no injury or damage to others; nor to operator or owner of vehicle legally parked; nor to owner of vehicle operated without permission; nor to owner or operator shown not to be at fault either by the accident report or by subsequent proof. (H. B. 69—1947 Laws, p. 3).

Insurance Adjusters—Annual license required, but not in case of attorneys licensed to practice law in Florida nor in case of persons holding license as resident agents of insurer. (S. B. 114—1947 Laws, p. 715). Sec. 14 makes it "unlawful—to misrepresent to an insured or any other person having an interest in the proceeds payable under such contract or policy, the terms, coverage or effect of such contract or policy, for the purpose and with the intent of effecting settlement of such claim, loss or damage under such contract or policy on less favorable terms than those provided in and contemplated by such contract or policy."

Owner's Liability for Driver's Negligence—Declaration sufficient if it alleges operation of vehicle by driver and the name of the owner. Not necessary to allege any legal relationship or any facts as to authority or consent of owner. If owner denies liability, he must set up his defense in special pleas and particularly allege the facts on which he relies. Plaintiff is only required to prove ownership of vehicle and the driver to establish a presumption of owner's liability. Presumption is rebuttable within limits of facts set forth in the special pleas. (H. B. 358—1947 Laws, p. 1205).

Animals Running at Large—Act to be ef-

fective January 1, 1949 if approved by voters at special election—makes it unlawful for livestock to run at large in *St. Johns County*. Includes horses, asses, mules, cattle, hogs, sheep, goats and all other grazing animals. Owner who negligently permits such stock to run at large shall be personally liable for damage therefrom up to $1,000. Running at large is *prima facie* evidence of the owner's negligence. (H. B. 79—1947 Laws, p. 137).

Pasco County—Act makes it unlawful for livestock to run at large in this county—includes horses, asses, mules, cattle, swine, sheep, goats and other livestock and grazing animals (not including dogs). Owner who wilfully permits such animals to run at large is guilty of misdemeanor and shall be liable to persons injured or damaged thereby. Act is effective June 1, 1947 as to livestock customarily kept in Pasco County, and as to livestock kept in other counties, but straying into Pasco, the Act is effective upon the erection of a fence by the County Commissioners to prevent entrance of livestock along county boundaries not having natural barriers. (H. B. 138—1947 Laws, p. 17).

Escambia County—Act makes it unlawful for livestock to run at large within portion of County lying south and east of a line commencing where the North right of way line of U. S. Highway 90 intersects the boundary line of Alabama and running easterly along said North right of way line to where it joins the North right of way line of alternate U. S. Highway 90 (known as the 9-mile road), and thence easterly along said right of way line to where it again joins the north right of way line of U. S. Highway 90 and thence along the north right of way line of U. S. Highway 90 to Escambia River. Act applies to horses, asses, mules, cattle, swine, sheep, goats and other grazing animals. The owner or person having the care, custody or control of livestock running at large within said territory shall be personally liable to persons damaged in person or property by said livestock. (S. B. 140—1947 Laws, p. 363).

GEORGIA

Venue—Suits under Act relating to use of highways by non-resident motorists to be brought in County where accident, injury or cause of action originated, *or* in County of plaintiff's residence, as plaintiff may elect, if he is a resident of Georgia. If plaintiff is not a resident of Georgia, suit shall be brought in County where accident or injury or cause of action originated. (H. B. 53—1947 Laws, p. 31).

Unlawful Operation of Vehicles—Persons under 16, or under influence of intoxicating liquor or drugs, are prohibited from operating motor vehicles or motorcycles. Unlawful to operate same without owner's consent. Proviso, that nothing in this Act shall be construed to prevent the operation of farm vehicles by any person on a privately owned farm. (H. B. 79—1947 Laws, p. 131).

Parking on State-Aid Roads—Section 1 of present Act (Acts of 1935, p. 443) amended by adding provisos that it shall not apply to temporary stops made as a normal and reasonable incident to traffic conditions existing at the time, and shall not apply to passenger vehicles operating under certificate of convenience and necessity while parked or stopped to take on or discharge passengers, if impractical to comply with provisions of said section and view of vehicle is not obstructed for 200 feet in each direction. (H. B. 238—1947 Laws, p. 789).

IDAHO

Financial Responsibility Law — House Bill 137 was enacted and became effective May 6, 1947. The Bill is known as the Idaho Safety Responsibility Act, and is the model Financial Responsibility Law.

House Bill 131 adds a new section 48-904 to the Idaho Code, and provides that a private owner of a motor vehicle shall be responsible in civil damages for the negligent operation of his motor vehicle operated by any person with his express or implied permission.

ILLINOIS

Death Act—Raises limit to $15,000. (H. B. 17—1947 Laws, p. 407).

Safety Responsibility Law—Amended by H. B. 256 (1947 Laws, p. 85).

Reporting Accidents—Driver of vehicle involved in accident resulting in personal injury or death of any person, or more than $50.00 property damage (including his own) must make written report to Department as soon as possible and within ten days. License or non-resident's operating privilege suspended for wilful failure to report. If driver is physically unable to make report then other occupant, if any, shall make it. And, if driver does not re-

port accident for any reason, the owner of the vehicle involved shall report as soon as he learns of the accident. (H. B. 260—1947 Laws, p. 83).

Drive Yourself Business—Unlawful for owner of vehicle to engage in such business unless he has in full force and on file with the Secretary of State either a motor vehicle liability policy or bond as required by Act. (H. B. 338—1947 Laws, p. 527).

INDIANA

Financial Responsibility Law—Requires security for past accident not covered by insurance and also proof of future responsibility where accident involves personal injury, death or more than $50.00 property damage. The amount was previously $25.00. Proof also required upon certain convictions, failure to pay judgments, etc. (H. B. 317—1947 Laws, p. 285).

Traffic Regulations—Amending certain Sections. (H. B. 342—1947 Laws, p. 503).

Signals—Green or "Go" signal: Vehicles facing this signal must nevertheless yield right of way to other vehicles and to pedestrians lawfully within a crosswalk at intersection. Pedestrians facing such signal may proceed across roadway within any marked or unmarked crosswalk.

Yellow or "Caution" signal: Vehicles must stop before entering nearest crosswalk, but if cannot stop in safety may proceed cautiously through the intersection. "Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right of way to all vehicles."

Red or "Stop" signal: Vehicles must stop before entering nearest crosswalk and remain standing until green or "Go" is shown. No pedestrian facing red or "Stop" signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

Red with green arrow: Vehicles may cautiously enter the intersection only to make the movement indicated by the arrow, but shall yield right of way to pedestrians lawfully within a crosswalk and to other traffic.

Street car motormen must obey the above signals as applicable to vehicles.

Reporting Accidents—Driver involved in accident resulting in personal injury or death shall immediately, by the quickest means of communication, notify local police department if the accident occurs within municipality; otherwise to the Sheriff or nearest state police post. Also, driver must forward written report to the Department within 24 hours after accident results in personal injury, death, or total property damage to an apparent extent of $50.00 or more.

Speed—Must not drive at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

Following Vehicles—Driver shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of such vehicles and the condition of the highway. Driver of truck or tractor-trailer combination outside business or residence district shall not follow within 150 feet of another such vehicle, but this does not prevent overtaking and passing and does not apply on lanes designated for use by motor trucks. Vehicles driven in caravan or motorcade outside business or residence district must allow sufficient space between each vehicle to enable another to enter and occupy such space without danger, but this does not apply to funeral processions.

Divided Highways—Must drive on right hand roadway and no vehicle shall be driven over, across or within the dividing space, barrier or section except through an opening or crossover or intersection established by public authority.

Turning—Right turn — both approach and turn shall be made as close as practicable to right hand curb.

Left Turn—Approach for turn from two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the center line of the street being entered upon leaving the intersection. Where both streets are one way, both the approach and the left turn shall be made as close as practicable to the left hand curb or edge of the roadway.

State highway commission and local authorities in their respective jurisdictions may direct different course in making turns by means of markers, buttons or signs placed within or adjacent to intersections.

and when so placed no driver shall turn other than as directed thereby.

Signal to Stop or Turn—Such signal when required shall be given by hand or arm or by a signal but when vehicle is so constructed or loaded that a hand-and-arm signal would not be visible both to front and rear, then signals must be given by lamp or signal device.

Additional Regulations as to Pedestrians—Pedestrians are subject to traffic control signals at intersections, but at all other places they shall be accorded the privileges and be subject to the restrictions stated in this article. Local authorities may by ordinance require pedestrians to comply strictly with directions of any official traffic control signal, or prohibit pedestrians from crossing any roadway in a business district or any designated highway except in a crosswalk.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

Where sidewalks are provided it shall be unlawful for pedestrians to walk along and upon an adjacent roadway. Where no sidewalks are provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway, or its shoulder, facing traffic which may approach from the opposite direction.

Bicycles—Lamps required between one-half hour after sunset and one-half hour before sunrise—white light in front and red light or reflector at rear. Also, brake required.

Parking—Vehicles must be stopped or parked with right hand wheels parallel with and within twelve inches of right hand curb, except where angle parking is permitted by local ordinance or order of State Highway Commission. The Commission may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in its opinion, as evidenced by resolution, it would be dangerous or would unduly interfere with the free movement of traffic. Such signs shall be official signs and shall be obeyed.

Projecting Load—When load projects more than four feet to rear of bed or body of vehicle, an extra red light shall be displayed at extreme rear end of load when lights are required. At other times a red flag shall be so displayed.

Inspection—No person shall operate any vehicle after receiving written notice from police officer that vehicle is unsafe, etc., except to return the vehicle to his or owner's residence or place of business, if within 20 miles, or to a garage, until vehicle and its equipment have been properly adjusted or repaired.

Licenses—None required of person operating official motor vehicle in service of armed forces; or of non-resident at least 16 years and one month of age having in his immediate possession a valid operator's license issued to him in his home state or country, while operating vehicle in Indiana only as an operator; or of certain other persons.

Restricted licenses may be issued and person operating vehicle in violation of the restrictions is guilty of misdemeanor. (H. B. 444—1947 Laws, p. 595).

IOWA

Financial Responsibility Law—H. B. 96 enacts a model Safety Responsibility Law, effective October 1, 1947. H. B. 519 amends this new law by providing that when one has had his operator's license suspended because of failure to pay a judgment for damage arising out of an auto accident the license shall not be reinstated until after the judgment is stayed or satisfied.

Right of Way—Section 1 of Chapter 175 of the 52nd General Assembly repeals Section 321.323 and 321.353, Code 1946, relating to requirements in emerging from a private roadway, alley, driveway or building by stopping before driving onto the sidewalk area and thereafter yielding the right of way to vehicular traffic on the street being entered, and enacting in lieu thereof a similar provision except a "private roadway" is added to the terms, alley, driveway or building and further the new statute does not restrict the requirements therein to a business or residence district and provides that the motor vehicle shall proceed into the sidewalk area "only when he can do so without danger to pedestrian traffic." The duty to yield the right of way to vehicular traffic in the street being entered remains the same.

Accident Reports—Section 5 of Chapter 175 of 52nd General Assembly is designed to speed up the reporting of motor vehicle accidents where personal injury is involved or where property damage amounts to $50.00. The old property damage figure was $25.00. The old Section 321.266, 1946 Code, was amended to re-

quire motorists to make a written report within 24 hours and provides that the law enforcement officer investigating the accident and making a report shall forward the same to the department in 24 hours.

Motorcycle Defined—Section 6 of Chapter 175 of the 52nd General Assembly amends subsection 3 of Section 321.1, 1946 Code of Iowa, which defines the term "motorcycle" by inserting the words "or seat" following the word "saddle" in the second line and inserting the words "including a motor scooter and a bicycle with motor attached" following the word "ground" in the fourth line thereof. In other words a motor driven cycle with "saddle" or "seat" now comes under the division of motorcycle as well as a motor scooter or bicycle with motor attached.

Chauffeur Defined—Section 7 of Chapter 175 amends Section 321.1, Code 1946, by striking all of subsection 43 and substituting the following:

> "Chauffeur means any person who operates a motor vehicle in the transportation of persons or freight, including school busses, and who receives any compensation for such service in wages, commission or otherwise, paid directly or indirectly, or who as owner or employee operates a motor vehicle carrying passengers for hire or freight for hire, commission or resale, including drivers of ambulances, passenger cars, trucks, light delivery, and similar conveyances except when such operation by the owner or operator is occasional and merely incidental to his principal business.
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> "Subject to the provisions of Section 321.179, Code 1946, a farmer or his hired help shall not be deemed a chauffeur, when operating a truck owned by him, and used exclusively in connection with the transportation of his own products or property."

Subsection 43 which was repealed provided as follows:

> " 'Chauffeur' means any driver who operates a motor vehicle or a motor truck in the transportation of persons or property for hire, including school busses, whether paid directly or indirectly in wages, commissions or otherwise, excepting when such operation by the owner or driver is occasional and merely incidental to his principal occupation, or when a passenger automobile is being operated as a pool car in a 'share the ride' plan.
>
> "Subject to the provisions of Section 321.179, a farmer or his hired help shall not be deemed a chauffeur, when operating a truck owned by him, and used exclusively in connection with the transportation of his own products or property."

Driving Age—Section 8 of Chapter 175 of the 52nd General Assembly enactment amends Section 321.177, Code 1946, by increasing the age from 15 to 16 years of age of persons which the department may license to operate a light delivery truck, panel delivery truck, or pickup.

Restricted Operator's License—School Children—Section 9 of Chapter 175 of 52nd General Assembly Laws amends Section 321.194, Code 1946, by inserting after the word "school" in line four the following: "over the most direct and accessible route" and by striking the comma (,) after the word "driver" in line eight and inserting in lieu thereof a period and by striking all the balance of said section.

Section 321.194 before the amendment read as follows:

> "A restricted license may be issued to any person between the ages of fourteen and sixteen years, to be valid only in going to and from school or at any other time when accompanied by a parent or guardian who is a holder of a valid operator's or chauffeur's license, and who is actually occupying a seat beside the driver, or the department, in its discretion, may issue to a person fifteen years of age a restricted license with such restrictions as the department deems necessary and proper."

It will be seen that the amendment restricts the issuance of a license to persons between the ages of fourteen and sixteen years for school purposes "Over the most direct and accessible route" and withdraws from the department the discretion of issuing a restricted license to a person fifteen years of age such as the department may deem necessary.

Size, Weight and Speed—Chapter 177 of the 52nd General Assembly provides that the maximum length of any motor vehicle or combination of vehicles, except fire fighting apparatus, shall be as follows:

> "(a) No single truck, unladen or with load, shall have an overall length inclu-

sive of front and rear bumpers, in excess of 35 feet.

"(b) No single bus, unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of 40 feet, provided that a bus in excess of 35 feet in overall length shall not have less than three axles.

"(c) No combination of truck-tractor and semi-trailer, unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of forty-five feet."

Section 3 of Chapter 177 of the 52nd General Assembly Laws amends Section 321.286, Code 1946, by increasing the speed of trucks weighing over 5,000 pounds and equipped with pneumatic tires from 40 miles to 45 miles per hour.

KANSAS

Death Actions—Decedent's personal representatives may maintain action against tortfeasor or his personal representative if decedent might have maintained action for injuries had he lived. Action must be commenced within two years. Damages may be awarded as may seem fair and just under all the facts and circumstances, but not to exceed $15,000. Damages must inure to exclusive benefit of surviving spouse and children, if any, or next of kin, to be distributed as personal property of deceased. Damages may be recovered for but not limited to: (a) mental anguish, suffering or bereavement; (b) loss of society, companionship, comfort or protection; (c) loss of marital care, attention, advice or counsel; (d) loss of filial care or attention; and (e) loss of parental care, training, guidance or education. (H. B. 151—1947 Laws, p. 745).

Lien of Garage Keepers, etc.—Garage keepers have lien on automobiles for services and materials to full amount and reasonable value thereof. Lien continues while garage keeper retains possession of vehicle and may be continued thereafter by filing verified statement in office of register of deeds within 30 days. Act extends also to blacksmiths, horseshoers, wagon makers and others who are also given lien on property on which they do work. (H. B. 455—1947 Laws, p. 771).

Defective Highways, etc.—Person sustaining damage by reason of defective bridge, culvert or highway without contributing negligence on his part, may recover from county when county is obligated to maintain the bridge, culvert or highway and when any member of the Board of County Commissioners, the County Engineer or Superintendent of Roads and Bridges shall have had notice of such defects for at least five days prior to the time such damage was sustained. In other cases recovery may be had from the township when the trustee of such township shall have had like notice of the defect. When two counties or townships, or a county and a township, are obligated to maintain, both may be sued in a single action in the District Court of either county. (S. B. 97—1947 Laws, p. 631).

Financial Responsibility Law—Section 8-703 amended—relates to suspension of licenses on conviction or forfeiture of bail. (S. B. 132—1947 Laws, p. 203).

KENTUCKY

The Legislature did not meet in regular session, and there were no Bills affecting automobile insurance law before the special session.

LOUISIANA

The Legislature did not convene in regular session, and the call for the special session did not include any matters pertaining to automobile insurance law.

MAINE

Reporting of Accidents—Chapter 85 amends paragraph No. 3, Section 6, Chapter 13 of the Motor Vehicle Law, relating to the reporting of accidents, by adding a provision to the effect that a person failing to comply with the section shall be guilty of a misdemeanor punishable by fine and imprisonment. Effective 91st day after adjournment.

Actions Against Motor Carriers—Statute of Limitations—Chapter 156 amends Chapter 44, Section 12, Revised Statutes, which provides that actions of tort for injuries to the person or for death and for injuries to or destruction of property, caused by the ownership, operation, maintenance, or use on the ways of the state of motor vehicles or trailers subject to the supervision and control of the public utilities commission, shall be commenced only within one year next after the cause of action occurs, by extending such time limitation to two years. Effective 91st day after adjournment.

Financial Responsibility—Return of Licenses: Exemption—Chapter 140 amends Section 66, subdivision 2 of the Financial Responsibility Law, relating to security and proof following accidents, to additionally provide that any person whose operator's license or registration has been suspended shall immediately return license and registration certificates and plates to the Secretary of State. A penalty is imposed for violation.

Amends subdivision V of said section, relating to exemption from the provisions requiring security and proof, by adding a paragraph exempting the operator of a motor vehicle involved in an accident if at the time such motor vehicle was owned by the State of Maine or any political subdivision thereof, or by a self-insurer. Effective 91st day after adjournment.

Dealers Registration—Liability Insurance—Bond—Chapter 123 amends Section 19, Chapter 19 of the Revised Statutes, relating to the issue of a certificate of registration and registration number plates, to dealers in motor vehicles, to newly provide that the secretary of state shall not issue such registration, until the dealer shall procure and file insurance against legal liability caused by the operation of any motor vehicle bearing such dealer's registration, in the sum of $10,000/$20,000/$5,000.

Further provides that in lieu of such insurance the dealer may file a bond or bonds issued by an authorized surety company guaranteeing the payment of any judgment secured against such dealer on account of any such injuries, damage or death. Effective 91st day after adjournment.

Adjusters' Licenses—H. B. 252 requires persons seeking a license as an insurance adjuster to pass an examination and to pay a $10.00 examination fee.

MARYLAND

Reporting Accidents—Operator required to make written report to Department where any person is killed or injured or where there is more than $50.00 damage to the property of any one person, including himself. Report to be made within 48 hours. When operator physically unable to make report, the owner of the vehicle must do so as soon as he learns of the accident. (H. B. 27—1947 Laws, p. 17).

Financial Responsibility—New subsection 5 effective June 1, 1947 authorizes the Department to extend suspension date for five days upon satisfactory evidence that final releases are being negotiated to the satisfaction of all parties. (H. B. 31—1947 Laws, p. 237).

Joint Tortfeasors—Defendant seeking contribution in tort action may implead 3rd parties as joint tort-feasors. Motion to implead is *ex parte* if made prior to answering. If made later, notice and showing of good cause for delay is required. (H. B. 278—1947 Laws, p. 1361).

Death Actions—Proper Plaintiff—(a) Any person who is entitled to bring suit under the laws of the jurisdiction wherein the wrongful death occurred may bring suit in Maryland, upon proof of his qualifications and authority.

(b) If the laws of the State wherein the wrongful death occurred provide for suit to be brought in the name of the State, District or Territory, as the case may be, then suit may be brought in Maryland in the name of this State on behalf of the beneficiaries protected under the foreign statute.

(c) These provisions do not apply to actions in which service of process can be obtained in the jurisdiction where the cause of action arose or where the plaintiff resides. (H. B. 400—1947 Laws, p. 1073—effective June 1, 1947).

Charitable Institutions—Each policy issued to cover liability of any charitable institution for negligence or any other tort shall contain a provision to the effect that the insurer shall be estopped from asserting as a defense that such institution is immune from liability as a charitable institution. (S. B. 411—1947 Laws, p. 1449).

MASSACHUSETTS

Common Carrier of Passengers—War Emergency Certificates—Extension—Chapter 378 authorizes common carrier operating motor vehicles for the carriage of passengers for hire under the authority of a war emergency certificate to continue such operation for a period of six months after repeal, revocation and annulment of authority under which certificate was granted. Effective August 8, 1947.

Motor Vehicles—Judgment of Agreement—Defendant's Rights—Chapter 431 repeals Section 240A of Chapter 231, of the General Laws, which provided that a judgment entered by agreement, the payment of which is secured in whole or in part by a

statutory motor vehicle liability bond or policy, shall not operate as a bar to an action brought by a defendant in the action, unless he personally signed such agreement, and newly provides that in an action brought to recover for personal injuries, consequential injuries or injury to property sustained by reason of a motor vehicle accident, a judgment entered by agreement of the parties, without a hearing on the merits, shall not operate as a bar to an action brought by a defendant in an action in which such judgment was entered, unless such agreement was signed by the defendant in person. Effective Septemer 1, 1947.

MICHIGAN

Financial Responsibility Law—The Financial Responsibility Law was amended by Senate Bill 43, which deleted the requirement of proof of financial responsibility in case of damage to property in excess of $50.00, and now requires such proof for damage to property in any amount.

Operator's License—House Bill No. 52, Public Act 146, Acts 1947, provides for the licensing of operators. Section 2 provides that no person shall operate a motor vehicle upon a highway without an operator's or a chauffeur's license. Section 4 provides that a non-resident over the age of sixteen years who is licensed in his home state can operate a car upon the highways. If the state in which the non-resident resides, and in which his vehicle is registered does not require an operator's license, he cannot operate a car in the state without applying for a license, except that a non-resident who is over seventeen years of age can operate a vehicle for 90 days in any calendar year if he carries his motor vehicle registration certificate. The Act also provides for the suspension and revocation of operator's and chauffeur's licenses.

Speed Limits—House Bill 441, Public Act No. 354, Acts 1947, amends Section 5 and 36 of Act. No. 318. Section 5 is amended to provide that a motor vehicle shall be operated at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to prevailing conditions. It also provides that no person shall drive a vehicle upon a highway at a speed that is greater than will permit him to bring it to a stop within the assured clear distance ahead. It provides that it shall be *prima facie* unlawful for any person to drive in excess of 25 miles an hour on all highways in a business district, or in a residence district and in public parks, unless a different speed is fixed by local authorities. It also provides that no passenger vehicles drawing another vehicle or trailer shall exceed a speed of 50 miles per hour, and trucks and tractors with a trailer shall not exceed a speed of 45 miles an hour. Section 36 is amended to specify the maximum width, length and height of vehicles.

Solicitation of Claims—Public Act 173 makes it a misdemeanor to solicit any person directly or indirectly for the purpose of representing them in the making of a claim for damages or prosecuting a cause of action arising out of personal injuries.

MINNESOTA

Chapter 549—S. F. 410—Makes it a misdemeanor to operate a motor vehicle after suspension of driver's license.

Chapter 152—H. F. 639—Provides that the Court upon such terms as may be proper shall order additional defendants to be brought in.

Chapter 462—H. F. 918—Defines commercial passenger transportation.

Chapter 166—Provides for the filing of a liability policy or bond by persons pulling or towing another vehicle intended to operate under its own power. Affects "drive away" units. Raises former liability limit to $10,000 and $100,000 for personal injuries or death.

Chapter 114—Permits persons making reports of accidents to testify in Court, although reports remain privileged.

Chapter 204—University of Minnesota may make own traffic regulations under certain circumstances.

Chapter 119—Rating bill, authorizes Commission of Insurance to regulate casualty Insurance rates.

MISSISSIPPI

The Mississippi Legislature did not meet in regular session in 1947. A special session was called, but the call did not include any matters pertaining to automobile insurance law.

MISSOURI

The 64th General Assembly for the State of Missouri convened January 8, 1947, and after frequent recesses it finally recessed from July 14, 1947 to January 7, 1948. No Bills were enacted affecting automobile

insurance law, but there are a number of Bills pending which affect automobile insurance law that will be taken up as soon as the legislature reconvenes. These Bills include a Bill to increase the amount recoverable for death occasioned by negligence in the operation of a public conveyance from $10,000 to $15,000. There is also a guest bill pending, as well as a survival bill.

MONTANA

Uniform Motor Vehicle Operators' and Chauffeurs' License Act—"(b) Any negligence or wilful misconduct of a minor under the age of 18 years when driving a motor vehicle upon a highway shall be imputed to a person who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damages caused by such negligence or wilful misconduct (except as otherwise provided in sub-paragraph (c) of this section.

"(c) In the event a minor deposits or there is deposited upon his behalf proof of financial responsibility in respect to the operation of a motor vehicle owned by him, or if not the owner of a motor vehicle, then with respect to the operation of any motor vehicle, in form and in amounts as required under the motor-vehicle financial responsibility laws of this state, then the board may accept the application of such minor when signed by one parent or the guardian of such minor, and while such proof is maintained such parent or guardian shall not be subject to the liability imposed under sub-paragraph (b) of this section."

The Act then goes on and provides that the person signing the application for a minor can be released by filing a verified written request, and the board is required to cancel the minor's license upon notice of the death of the person signing the application.

Chapter 96 gives the right of way to fire trucks.

Chapter 276 says that a child under 18 who wilfully, unlawfully, negligently or dangerously or while under the influence of liquor drives a car is a delinquent child.

Chapter 213 makes provision for renewal after three years of a driver's license which has been suspended or revoked.

Chapter 123 deals with load limits, size and weight of vehicles, and with restrictions in speed regulations.

Chapter 155 provides that the county wherein an accident occurs has to pay for the medical and hospital attention rendered transients, and for reimbursement by the State Department of Public Welfare.

Chapter 201 allows state employees six cents per mile for using their own cars.

NEBRASKA

Reckless and Drunken Driving—L. B. 162, Nebr. 1947 Laws, SCJ, page 157. This bill amends Secs. 39-727, 39-762, 39-7107 and 60-472, R. S. 1943. Having been passed with the emergency clause, the bill became effective May 20, 1947. The law generally refers to reckless and drunken driving and also defines "Wilful Reckless Driving," which heretofore was absent from the statutes. The penalty for these various offenses has been increased and it is noted that the punishment for wilful reckless driving is more severe than that for merely reckless driving. The law provides, under the prescribed circumstances and conditions, for the impounding of a motor vehicle at the expense and risk of owner thereof upon the conviction of a person for reckless driving, wilful reckless driving or driving a motor vehicle while under the influence of alcoholic liquor or any drug. Prior to the passage of this bill, Nebraska had no law dealing with impounding of vehicles upon conviction. The bill further provides that the person convicted of the above acts shall be ordered by the Court not to drive any motor vehicle for any purpose during certain periods of time under the prescribed circumstances and conditions. Provision is also made for suspension or revocation of operator's license.

Accident Reports—L. B. 51, Nebr. 1947 Laws, SCJ, page 157. This is a bill amending Sec. 60-505, R. S. Sup. 1945, relating to the time for filing a report of an accident with the Department of Roads and Irrigation. The law now gives the operator of a motor vehicle ten days from date of accident in which to report the matter in writing to the Department of Roads and Irrigation. The old law provided that the accident be reported "immediately." This bill became effective September 7, 1947.

Size—L. B. 480, Nebr. 1947 Laws, SCJ page 157. This bill amends Sec. 39-721. R. S. 1943, relating to highways; to provide

for standardization of motor vehicle lengths to conform with the uniform recommendation of the American Association of State Highway Officials. Whereas the old law designated 42 feet as a maximum length for a tractor and semi-trailer when combined, the new law provides for a maximum of 50 feet. Combinations of vehicles, including straight trucks and full trailers, shall consist of not more than two vehicles, and when so combined shall not exceed a total length of 50 feet. Under the old law the maximum length was 45 feet. This law was passed with the emergency clause and became effective March 24, 1947.

Load and Speed—L. B. 46, Nebr. 1947 Laws, SCJ page 103. This bill amends Sec. 39-722, R. S. Sup. 1945, to change the maximum weight load that may be carried by motor vehicles on highways in this state. The law now includes a table which indicates the maximum load to be carried on any group of axles.

Sec. 39-723, R. S. 1943, has also been amended. Only noted change is the increase in speed from 40 to 50 miles per hour for any vehicle towing a trailer or semi-trailer or for a freight-carrying vehicle weighing over five tons. This was also passed with the emergency clause and the bill became effective on May 2, 1947.

Financial Responsibility Law Amended—L. B. 142 Nebr. 1947 Laws, SCJ page 155. This bill amends Secs. 60-510, 60-511, 60-514, 60-524, 60-525, 60-527, 60-551, 60-555, R. S. Sup. 1945, relating to motor vehicles. The most significant changes are as follows:

The bill provides that certain requirements with reference to security and suspension shall not apply when the motor vehicle was being operated without the owner's consent or permission at the time of the accident. Subsection 3 of 60-510, R. S. Sup. 1945, is changed in this respect.

This bill further provides that security for financial responsibility shall only be required to be maintained for three years. Secs. 60-511, 60-525, and 60-527, are changed in this respect.

Sec. 60-555, R. S. Sup. 1945, forbids transfer of registration to defeat the purpose of the act. The phrase "After the date of the accident," was included to clarify and make more specific the meaning of this section. This bill was passed without the emergency clause. It becomes effective Sept. 7, 1947.

NEVADA

No legislation was enacted affecting automobile insurance law. The model financial responsibility law was passed by the legislature but was vetoed by the Governor.

NEW HAMPSHIRE

Motor Vehicles—Financial Responsibility—Certificate of Insurance—Chapter 230 amends paragraph 1, Sec. 20 of the Financial Responsibility Law, which prescribes the certificate of an insurance company or surety company as one of the methods of giving proof of financial responsibility, to additionally provide that financial responsibility may be given by a "continuous certificate" which shall remain in effect until ten days after written notice that the certificate will be cancelled. Provides that such certificate shall automatically apply to motor vehicles replacing those described in the certificate as of the date of its registration to the insured and for the period, if any, not exceeding five days prior to such registration when the motor vehicle is operated on temporary plates, and for fifteen days after the date of registration unless notice of cancellation is filed. Further provides that the continuous certificate shall apply automatically to any additional motor vehicle acquired by the insured, provided that the insurance company or surety company insures all motor vehicles owned by the named insured and provided that the continuous certificate shall apply to such additional motor vehicle only to the extent the insurance is applicable to all such previously owned motor vehicles. Effective August 1, 1947.

Motor Vehicles—Financial Responsibility Law—Exemptions—Chapter 118 amends Sec. 25 of the Financial Responsibility Law to additionally provide that the law shall not apply to city or town police officers, nor to state police employees while on official duty operating a department vehicle. Effective April 30, 1947.

NEW JERSEY

Auto Buses—Exemption—Chapter 161 amends Sec. 48:4-1 of the Revised Statutes by exempting from the chapter regulating the operation of auto buses those with a carrying capacity of not more than 8 (instead of 6) passengers operated under municipal consent upon a route wholly within a municipality.

(*Note*: Said chapter requires auto bus companies to carry liability insurance or be self-insured). Effective May 20, 1947.

NEW MEXICO

Financial Responsibility Law – House Bill 292 enacted a model type financial responsibility law.

Accident Reports–S. B. 62 provides for reports of accidents made by State Police to be made available to any person upon written application and payment of a fifty cent fee.

Joint Tortfeasors–Contribution, Release, etc.–S. B. 38 provides for contribution among joint feasors. Right of contribution exists and recovery of judgment by injured person against one joint tortfeasor does not discharge others. A joint tortfeasor cannot have money judgment for contribution until he has discharged the common liability or has paid more than his *pro rata* share, and if he makes settlement with the injured person he cannot recover contribution from other tortfeasors whose liability to injured party is not extinguished by the settlement. Release of one joint tortfeasor, before or after judgment, does not discharge other tortfeasors unless release so provides, but it reduces the claim against the others by the amount paid for the release or in such amount or proportion as the release provides. Release of one joint tortfeasor does not relieve him from liability to make contribution to others, unless the release is given before the others' right to secure money judgment for contribution has accrued and release provides for a reduction, to the extent of the *pro rata* share of the released tortfeasor, of the injured person's damages against all the other tortfeasors. The Act does not impair any right of indemnity under existing law. (S. B. 38-1947 Laws, p. 209).

NEW YORK

Motor Vehicle Liability Security Fund–Chapter 801. This statute creates a Motor Vehicle Liability Security Fund for payment of claims under automobile liability policies remaining unpaid by reason of the insolvency of the insurer.

The Fund is made up of contributions by insurance companies which are required to file quarterly returns of premiums and pay 2% of the net direct written premiums on liability policies on motor vehicles principally garaged in the state, for three years, and thereafter 1%, until the amount of the fund equals 15% of the outstanding claim reserves of all authorized insurers on such policies. Payments are then to be suspended until the fund is reduced below such amount.

Policies on motor carriers of passengers, required to insure under section 17 of the Vehicle and Traffic Law, are not subject to the assessment. Effective September 1, 1947.

Joint Legislative Committee–Creates a joint legislative committee to make a study of motor vehicle problems, and to make a report and recommendations to the governor and to the legislature before February 15, 1948.

Financial Responsibility–Reporting of Judgments–Chapter 195 amends section 94-g of the Financial Responsibility Law, which requires courts to report judgments to the Commissioner, to make such reporting conditional upon the written request of the judgment creditor or his attorney. Effective July 1, 1947.

Financial Responsibility–Erroneous Report–Notice That Insurance Not in Effect –Chapter 608 amends Section 94-e of the Financial Responsibility Law, relating to security and proof required after accident, by adding a sentence providing that where erroneous information with respect to insurance coverage of any vehicle is furnished to the Commissioner, he shall take appropriate action as provided in the Section, within 60 days after receipt by him of correct information with respect to such coverage.

Chapter 608 also amends the paragraph requiring the insurer to furnish notice that policy was in effect by adding an alternative provision that the insurer shall notify the Commissioner in such manner as he may require in case such policy was *not* in effect at the time of accident. Effective April 5, 1947.

NORTH CAROLINA

New Truck Act– (H. B. 126–1947 Laws, p. 1105-1128).

Insurance Adjusters–License required but NOT for lawyer who adjusts losses incidental to his practice nor for licensed insurance agents who may act as adjusters without adjuster's license. (H. B. 422–1947 Laws, p. 837). Annual license fee $3.00 for each company represented in the state. (H. B. 927–1947 Laws, p. 745).

Financial Responsibility Law–Effective July 1, 1947. Requires proof of responsibility where driver's license is suspended or revoked, and upon conviction of certain offenses and failure to pay judgments. Un-

licensed person involved in accident in which it is determined that he is at fault and involving damages in excess of $50.00, must show and maintain proof of responsibility before obtaining license. Act applies to both residents and non-residents. (H. B. 63—1947 Laws, p. 749).

Inspection, License, Speed—Act effective July 1, 1947 requires one inspection and certificate thereof for each motor vehicle, trailer or semi-trailer registered in state in 1948, and semi-annual inspections and certificates thereafter.

Persons over 16, who have not been refused a license or have not had such license revoked, may operate motor vehicles during daylight for not exceeding 30 days, while under the instruction and accompanied by a licensed operator or chauffeur who shall have full control and responsibility for the motor vehicle. Provides for examinations to determine whether applicant for license is physically and mentally competent to operate motor vehicles, etc., and amends sections relating to suspension of license upon convictions for speeding, driving while intoxicated, etc.

Speed Restrictions—20 miles per hour in any business district; 35 miles per hour in any residential district; 45 miles per hour in other places for vehicles other than passenger cars, regular passenger carrying vehicles, pick-up trucks of less than one ton capacity and school buses loaded with children, and 55 miles per hour for passenger cars, regular passenger carrying vehicles and pick-up trucks of less than one ton capacity.

Lower speed shall not relieve driver from duty to decrease speed when approaching and crossing intersections, curves or hill crests or when upon a narrow or winding road or when special hazard exists. Commission may declare lower speed limits which shall be effective when appropriate signs are erected, and local authorities may in the same manner change speed limits in their jurisdiction, but may not increase limit beyond 50 miles per hour. Speed provisions do not relieve plaintiff from burden of proving defendant's negligence as the proximate cause of an accident. This Act also prohibits driving at such a slow speed as to impede or block the normal and reasonable movement of traffic except when necessary for safe operation or in compliance with law. (S. B. 166—1947 Laws, p. 1045).

School Buses—State Board of Education may permit use and operation of school buses for transportation of school children and school employees within county or health district to attend State planned group educational or health activities, but not athletic or recreational activities. (S. B. 194—1947 Laws, p. 239).

NORTH DAKOTA

Chapter 256—Motor Vehicle Safety Responsibility Act. Effective January 1, 1948. The model Safety Responsibility Law was enacted. Proof required when injury or death or damage to property in excess of $100.00 is involved.

Chapter 257—Has to do with identification numbers on motor vehicles.

Chapter 260—Provides that trucks with gross weight of 5000 pounds shall not follow another truck within 400 feet.

Chapter 264—Length limitation of motor vehicles. Exempts certain vehicles.

Chapter 265—Operator's license tests. Requires physical, mental and driving tests.

Chapter 273—Requires drivers meeting or overtaking any school bus stopped on highway to receive or discharge school children to stop.

Chapter 274—Unsatisfied judgment fund. Provides for special registration fee on motor vehicles of $1.00 for each vehicle to establish a fund in state treasury known as the "unsatisfied judgment fund." Authorizes payment from such fund of certain judgments for damages resulting from bodily injury to, or death of, persons arising from the ownership, maintenance, operation or use of a motor vehicle by the judgment debtor; provides the procedure, conditions and limitations therefor. Prescribes the conditions under which the judgment debtor whose driver's license, driving privilege or registration privilege has been suspended or revoked, may have his license, driving privilege or registration privilege restored. Statute applies to judgments exceeding $300 and limits payments from fund to $5000 for judgments resulting from injury to or death of one person in one accident, or for more than $10,000 arising out of one accident.

Chapter 275—Highway Commission may designate specific areas where maximum speed during daylight hours of 60 miles an hour and night of 50 miles an hour. Trucks speed limit 50 miles an hour. Lower limits may be designated in other areas.

Chapter 10—Concerns drinking in a motor vehicle, or the keeping of alcoholic bev-

erages which have been opened in a motor vehicle.

OHIO

No legislation was enacted which affects Automobile insurance law. H. B. 86 will be of interest to insurance attorneys in that it provides that an appeal may be taken from an order setting aside a judgment and ordering a new trial. H. B. 88 also will be of interest in that it permits a wider use of counter-claims.

OKLAHOMA

Operator's License—H. B. 316, which was approved and became effective May 21, 1947 amends a previous law, regulating the issuance, suspension and revocation of driver's licenses. It provides that no one shall operate a motor vehicle without first obtaining an operator's or chauffeur's license. It provides that no person shall operate a school bus who is under 18 years of age, and that no person who is under 21 years of age shall be issued a chauffeur's license for the operation of a motor vehicle while in use as a common carrier of persons or property. It provides for the maintenance of records in the Department of Public Safety and provides for the suspension and revocation of licenses by that Department upon conviction or the entering of a plea of guilty to any offense against the Statute relative to the operation of a motor vehicle or any offense against the liquor laws in which a motor vehicle is used.

OREGON

Pedestrian—H. B. 257, Chapter 407, Laws 1947, makes pedestrians subject to traffic control signals at intersections. If traffic control signals are not in operation the driver of a motor vehicle must yield the right of way to pedestrians within marked or unmarked crosswalks. Pedestrians crossing the roadway at any place other than a cross walk must yield the right of way to vehicles upon the roadway. This provision does not relieve the driver or the pedestrian from the duty to exercise due care.

Non-Resident Law—S. B. 259, Chapter 464, Laws 1947, provides for the service of process on non-resident owners and operators of vehicles who are involved in an accident within the state.

Attorney Fees—H. B. 452 provides that whenever a person sues for damages covering property or personal injury and recovers an amount less than $500 the court is authorized to allow the plaintiff reasonable attorney fees in addition to the amount of the judgment and court costs.

PENNSYLVANIA

Motor Vehicle Sales Financing—Act No. 476. (a) The Pennsylvania legislature enacted a statute regulating the installment sales and the financing of sales of motor vehicles. Effective August 28, 1947.

Financial Responsibility Law—Effective Date—Act. No. 511. The Pennsylvania legislature postponed the effective date of the new Financial Responsibility Law from July 1, 1947 to July 1, 1949. The effective date of the new Financial Responsibility Law passed in 1945. Effective July 3, 1947.

RHODE ISLAND

No legislation was enacted of a general nature affecting automobile insurance although legislation was enacted relating to the carrying of passengers for hire in the City of Warwick and the City of Cranston.

SOUTH CAROLINA

Recovery from County for Defective Highways, etc.—Authorizes recovery where defect caused by County's neglect or mismanagement, provided plaintiff was not guilty of contributory negligence and his load did not exceed ordinary weight. Verified claim to be filed with County Supervisor or other governing body within 180 days and suit to be filed within 12 months from date of injury or damage. Filing claim is pre-requisite unless summons and verified complaint are served on County within six months after injury or damage. (H. B. 358—1947 Laws, p. 267).

SOUTH DAKOTA

Chapter 172—Section 37.2201 of the South Dakota Code of 1939 is amended by adding thereto a provision that actions for wrongful death or personal injury shall survive the death of the wrongdoer whether or not the death of the wrongdoer occurred before or after the death or injury of the injured person.

Chapter 158—Provides for survival of actions for damage to property.

Chapter 173—Provides that the jury may allow such damages, not exceeding $10,000 as they may think proportionate to *all in-*

jury resulting from such death to the persons for whose benefit the action is brought. Heretofore, damages for wrongful death have been limited to pecuniary damage suffered by the beneficiary.

TENNESSEE

Buses and Trucks—Lights, etc.—Previous law amended to include reflectors and to provide warning when vehicle disabled on highway outside of business or residence districts between one-half hour after sunset and one-half before sunrise, and whenever there is not enough light to render clearly discernible a person 200 feet ahead. In such case a lighted fusee shall be placed on the road at the traffic side of the vehicle, one lighted flare or pot torch in the center of the line of traffic occupied by the disabled vehicle and approximately 100 feet therefrom in the direction of traffic approaching in that line, another approximately 100 feet from the vehicle in the opposite direction, and another at the traffic side of the vehicle approximately 10 feet rearward or forward. If the vehicle is within 300 feet of a curve, crest or other obstruction, the flare in that direction to be placed so as to afford ample warning but in no case less than 40 paces (approximately 100 feet) nor more than 120 paces (approximately 300 feet) from the disabled vehicle. In the case of vehicles used for transporting inflammables, whether loaded or empty, lighted flares are prohibited and red emergency reflectors shall be used instead. In daytime, when lights are not required, red flags are to be used. (S. B. 365—1947 Laws, p. 845).

TEXAS

Senate Bill 172 approved June 18, 1947, to be effective September 6, 1947 is an Act to regulate traffic or travel upon the highways of the State of Texas. It is an entire new Act.

Article I—Words and phrases defined.

Article II.—Obedience to and effect of traffic laws.

Sec. 24: Provides that the Act applies to the drivers of all vehicles owned or operated by the United States, the State or any county, city, town or any political subdivision except authorized emergency vehicles.

Sec. 24-B: Provides that drivers of an authorized emergency vehicle responding to an emergency call upon approaching a red or stop signal or any stop signs shall slow down as necessary for safety but may proceed cautiously past such red or stop sign or signal.

Sec. 24-C: Provides that no driver of an authorized emergency vehicle shall assume any special privilege except when responding to an emergency call.

Sec. 25: Provides that the Act applies to persons riding animals or driving animal drawn vehicles.

Sec. 27: Gives local authorities the right to exercise reasonable police power.

Article III—Section 29 provides for uniform traffic signs, signals and markings throughout the state.

Sec. 33: Provides that traffic making a right or left turn at intersection shall give right of way to other vehicles and pedestrians lawfully within intersection or adjacent cross walk.

Article IV—Sections 38-49: Provide for the reporting of accidents. Reports must be made in every case involving injury or death or where there is apparent damage to property in excess of $25.00. All reports are to be confidential except that the department can disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

Article V—Section 50: Provides that no one under the influence of drugs shall operate a motor vehicle and Section 51 defines reckless driving.

Article VI—Driving on right side of highway; overtaking and passing, etc. This article contains the common provisions. In particular it provides that a car shall not be driven into the left lane (1) in a no passing zone; (2) within 100 feet of an intersection or railroad crossing; or (3) within 100 feet of a bridge, viaduct or tunnel.

Sec. 61: Provides that the driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent.

Article VII—Turning and starting, and signals on stopping and turning. Section 65 provides for the manner in which right and left turns shall be made.

Sec. 66: Prohibits turning on curve or crest of grade.

Sec. 67: Provides that no person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with safety.

Sec. 68: Provides that signal to turn

must be given continuously for the last 100 feet before turning, and that no person shall stop or suddenly decrease his speed without signal.

Article VIII—Right of Way.

Sec. 71: Gives right of way to vehicle in an intersection over vehicle approaching intersection. When two vehicles approach intersection at the same time the vehicle to the left must yield right of way to vehicle on the right.

Sec. 72: Driver of vehicle intending to make left turn shall yield right of way to vehicle approaching from opposite direction that is within intersection or so close as to constitute an immediate hazard.

Sec. 73: Provides for stopping at through highways.

Article IX—Pedestrians' Rights and Duties.

Sec. 76: Provides that pedestrians are subject to traffic regulations.

Sec. 77: Gives pedestrians the right of way in cross walks.

Sec. 78: Provides that pedestrians must yield the right of way at points other than cross walks.

Sec. 79: Provides that notwithstanding these provisions, every driver must exercise due care to avoid colliding with a pedestrian.

Sec. 81: Provides that where sidewalks are provided that it is unlawful for a pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians must walk on the left side of the roadway. No person shall stand in roadway to solicit a ride.

Article X—Provides that it is unlawful to pass a street car on the left and that drivers of vehicles shall bring their car to a stop five feet behind a street car that is stopped or is about to stop to take on or discharge passengers.

Article XI—Provides for special stops and restricted speeds at railroad crossings.

Article XII—Stopping, standing and parking.

Article XIII—Miscellaneous.

Sec. 104: Provides that the driver of a vehicle upon a highway outside of a business or residence district, upon meeting or overtaking from either direction any school bus, which has stopped to receive or discharge passengers, shall stop before passing the school bus but may then proceed at a speed that is prudent, not exceeding ten miles per hour and with due care and caution for the children.

Article XIV—Provides for the type and condition of equipment on all types of vehicles.

UTAH

No legislation was enacted affecting automobile insurance law.

VERMONT

Transportation of Pupils—Liability Insurance—Section 4268 of the Public Laws, relating to transportation of pupils by the Board of School Directors, is amended to additionally provide that the Board may purchase, maintain and operate the necessary equipment in the name of the town.

No. 90 of the Acts of 1935, relating to public liability insurance to be carried by all persons transporting school children, is amended to newly provide that any school district which owns and operates equipment for the transportation of its school children shall also carry public liability insurance. Further provides that such insurance shall indemnify the operator of said equipment from legal liability against bodily injuries or death of one such child, not less than $5,000, against bodily injuries or death of all such children injured or killed in any one accident not less than $15,000 on equipment carrying not more than seven children, $20,000 on equipment carrying from 8 to 12 children, and $50,000 on equipment carrying more than 12 children.

Deletes the provision that such insurance shall be subject to the approval of the school directors unless such municipality shall carry liability insurance covering its school children when being transported for hire. Effective April 16, 1947.

Motor Vehicles—Financial Responsibility—Security—Section 5190 of the Financial Responsibility Law, which requires proof of financial responsibility after certain convictions and accidents, and security in the event of certain accidents followed by conviction is amended by deleting the provision requiring proof from the operator of a motor vehicle found to be at fault in an accident. Retains the provision requiring security and proof after certain accidents followed by conviction, except that the provision is made applicable in case of conviction of *any* violation of the provisions of the Motor Vehicle Act, instead of only certain enumerated violations, as previously provided. Newly exempts an operator who furnishes a certificate of an

authorized company certifying that insurance covering the legal liability of such operator to satisfy any claim or claims for damage to person or property, in an amount equal to the amounts required as proof of financial responsibility, was in full force and effect at the time of the accident. If such certificate is not filed the operator is required to furnish a written release from all persons injured or damaged, or sufficient security in the form of a surety company bond conditioned for the payment of such amount as the commissioner may deem necessary in view of the damages as estimated by him, not exceeding the amounts required as proof of financial responsibility, to satisfy resulting judgments in an action begun not later than one year after accident.

Also revises the provisions relating to the requirement of proof upon conviction. Effective April 19, 1947.

VIRGINIA

No legislation was enacted affecting automobile insurance law.

WASHINGTON

Complete information on legislation was not available at the time this report was prepared. Your committee has been informed that legislation was enacted increasing the speed limit in business districts, in towns, and on arterials through business districts, from twenty to twenty-five miles an hour. A maximum speed for trucks on highways was increased from 35 to 40 miles an hour.

WEST VIRGINIA

Minors and Insane—Compromise of Actions—Court in which suit is pending may approve compromise if deemed for the best interest of the infant or insane person. Written application of guardian, committee, curator or next friend is required and court is to hear testimony which must be written up and filed in the case. Upon approving compromise, court must enter judgment or decree and same shall be as effective and binding as a consent decree would be in a case where all parties are competent. A certified copy of the order must be recorded with the clerk of the county court wherein the guardian or committee was appointed. (S. B. 285—1947 Laws, p. 179).

Speed—No person shall drive at speed greater than is reasonable and prudent, having due regard to the traffic, etc., nor at a speed greater than will permit the driver to exercise proper control and to decrease speed or to stop as may be necessary to avoid collision. Act does not relieve plaintiff from burden of proving defendant's negligence as proximate cause of accident.

Speed Restrictions—Fifteen miles per hour when passing school building or grounds during recess or while children are going to or leaving school, or when within 100 feet of grade railway crossing where driver's view within 400 feet in either direction is obstructed.

Twenty miles per hour in business district or within 50 feet of intersection where driver's view in either direction along intersecting highway within 200 feet is obstructed, except that on through streets or at traffic-controlled intersections the district speed shall apply.

Twenty-five miles an hour on suburban streets, or at railway grade crossings where view is not obstructed, or in public parks within cities unless different speed is indicated by local authorities and posted.

Fifty miles per hour on open country highways, except as otherwise limited by this law.

Local authorities may indicate higher speeds on through highways or where intersections are widely spaced if proper signs are erected to give notice thereof, but no speed in excess of fifty miles per hour may be authorized.

It is unlawful to unnecessarily drive at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when necessary for safe operation or because of a grade or in compliance with law.

Other regulations as to speed limits:

(a) Vehicles not designed for carrying passengers, equipped with pneumatic tires: 35 miles per hour on open country highway; 25 on suburban street; 15 on urban street.

(b) Vehicles equipped with solid tires, less than 4,000 lbs. including gross weight of vehicle and load: 25 miles per hour on open country highway; 15 on suburban street; 10 on urban street.

(c) Over 4,000 lbs.: 15 miles per hour on open country highway; 10 on suburban street; and 10 on urban street.

(d) Steel-tired vehicles, 5 miles per hour on any such highway or street. (H. B. 60—1947 Laws, p. 59).

WISCONSIN

Sec. 82.216—Provides for direct liability for damages arising from negligent operation of foreign rent-a-cars operated in Wisconsin unless the vehicle is insured.

Sec. 246.075—Permits a husband to sue his wife for injuries caused by her negligence.

Sec. 85.08 (25c)—Relates to occupational drivers' licenses.

Sec. 85.095—Eliminates the defense of governmental function on the part of the state and its political subdivisions for damages done by negligent operation of motor vehicles.

Sec. 331.04 (1) (b)—Relates to the recovery of funeral expenses in wrongful death actions.

WYOMING

Survival—Actions for Personal Injuries—Actions for damages for personal injuries survive and may be brought notwithstanding the death of the person entitled or liable to the same, but if the person entitled to damages dies recovery is limited to damages for wrongful death. (H. B. 119—1947 Laws, p. 87).

Death Actions—Whenever death of a person is caused by wrongful act, neglect or default which would (if death had not ensued) have entitled the party injured to maintain an action to recover damages in respect thereof, then the party who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured and although the death may have been caused under such circumstances as amount to murder in the first or second degree or manslaughter. In the event of the death of the person liable, the action may be brought against the executor or administrator of his estate and if he left no estate in Wyoming the court may appoint an administrator upon application. (H. B. 120—1947 Laws, p. 105).

Death action to be brought by and in the name of the personal representative of decedent and amount recovered shall be distributed to the persons and in the proportions provided by law for distribution of intestate personal estate. The jury shall give such damages as they shall deem fair and just. Court or jury may consider, as elements of damages, the amount the survivors failed or will fail to receive out of decedent's earnings by reason of the death; also any other pecuniary loss directly and proximately sustained by the survivors including funeral expenses, and a reasonable sum for loss of comfort, care, advice and society of the decedent. Amount recovered is not subject to any debts or liabilities of decedent. Action must be commenced within two years after the death (H. B. 123—1947 Laws, p. 99).

Licenses—Unlawful to drive motor vehicle without Wyoming license, except as to non-residents licensed under laws of his home state for a period of 90 days. Application of minor fifteen years old or more must be signed by both parents if they are living and have custody of minor; otherwise, by the parent, tutor or other person having custody. Separate provisions as to minors' limited license to drive powered cycles. Provides for revoking licenses on certain convictions, etc. Unlawful for any person to cause or knowingly permit his or her child or ward under fifteen to drive a motor vehicle, except power cycles, which may be driven by minors fourteen years of age if properly licensed. Instruction permit may be issued to minor at least fifteen years old (14 for power cycles) good for 90 days when accompanied by a licensed operator. Also provides for special restricted licenses suitable to licensee's driving ability, etc., and it is a misdemeanor to operate vehicle in violation of restrictions imposed in such license. Persons under 21 may not drive school buses until licensed as a chauffeur. However, persons between 15 and 21 with aproval of school district and parents' permission, may be given a special driver's license to operate motor vehicle in which students may be transported to and from school. (H. B. 121—1947 Laws, p. 133).

School Buses—Insurance—School district board or driver or owner of school bus is required to procure liability insurance covering buses used for transportation of school children. Not to be construed as creating a liability against the school district so insuring said buses except in such amount as is covered by an existing and valid insurance policy. Contract for transporting children not fully executed until driver or owner of vehicle files required policy with the school district. (H. B. 159—1947 Laws, p. 239).

Financial Responsibility Law—Requires security for past accidents resulting in bodily injury, death or more than $50 property damage. No security required where accident covered by insurance, where no

damage to others, where car legally parked at time of accident or was being operated without owner's express or implied permission. Proof of future responsibility required for failure to pay judgments, conviction of offenses and forfeiture of bail. (H. B. 141–1947 Laws, p . 225).

Respectfully submitted,
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Report Of Highway Safety And Financial Responsibility Laws Committee

Highway Safety

The work of the President's Highway Safety Conference is described at some length in the last report of this Committee in the Journal for October, 1946. The National Committee for Traffic Safety includes more than 80 different national organizations. These 80 organizations have covered the range of possible activities very completely. Your Committee has interrogated a number of people, and a number of organizations, in an effort to find out if there might be anything that our Committee, or the National Association of Insurance Counsel, could do. The only suggestion that we received, was that we might do something to stiffen up the enforcement of the traffic laws. There is a general feeling, among qualified observers, that the police departments and the courts are not as efficient or as strict as they might be, but your Committee feels that it would not be wise for a group of insurance lawyers to undertake any crusade on this point.

A very good description of what is being done in a practical way in the field of traffic safety is contained in an article by Lieutenant Colonel Franklin M. Kreml, on page 35 of the Insurance Counsel Journal for January, 1947. It deals particularly with the efforts of law enforcement agencies.

General Fleming is chairman of the President's Safety Committee, and the author of a series of articles now appearing in the newspapers all over the country. In spite of all of the efforts of these various agencies, the accidents continue to occur.

While there is no way of measuring the number of accidents which do not happen, there is a general feeling that this concerted effort to prevent accidents has done much to reduce the number of accidents. There has not, however, been a corresponding decrease in the severity of personal injuries, or in the extent of property damage. The loss ratios of the insurance companies continue to be very high.

Many of the public officials who are working upon the problem of highway safety are very cynical about it. One such officer said that he thought the best way to reduce accidents in his state would be to have a layer of very sticky mud 6 inches deep on all the roads. Another official said that the laws of his state were adequate, if they could be enforced, but he thought they would have to have a traffic cop for every mile of highway, to make enforcement effective.

The fact that over 33,000 people were killed last year in automobile accidents is just another statistic. It doesn't seem to make much of an impression on the individual drivers.

The difficulty of the problem will, of course, increase with the increase in traffic, which is bound to occur in the future, and no one seems to have found an easy answer to the problem.

Financial Responsibility Laws

One of the insurance companies some years ago adopted the slogan "An injury prevented is a benefaction; an injury compensated is an apology." If the legislatures of the several states and the Congress are not able to prevent the accidents, they seem to be very willing to offer apologies in the shape of financial responsibility laws.

Just what effect financial responsibility

laws have on the frequency of automobile accidents is unknown. Your Committee interrogated the Traffic Institute of Northwestern University upon the relationship between Financial Responsibility Laws and Highway Safety. They replied that so far as they knew, no study had been made on that subject, and they had no information on it. They apparently took a poll of their office staff, and their conclusion "based on observation and some study" was to the effect that "The effect of compulsory insurance and financial responsibility laws on automobile accidents is nil."

Nevertheless, the preamble to most such laws contains some reference to the reduction of accidents.

During 1947, the legislatures of a large number of states have acted on this subject. Some new laws have been enacted, and many changes made in existing laws. The Committee feels that it would be useless to describe these changes. Any member of this Association already knows, or can easily learn, all he wants to know about the laws of his own state. If a member in one state wants to know about the Financial Responsibility Law of some other state, he would probably not learn very much from any report of this Committee. It would be impracticable for this Committee to try and publish the laws of all of the states, and brief comment about them would be of little value.

Representative Marion Bennett of Missouri has introduced into the present session of the Congress HR 3042 providing for the creation in the Department of the Interior of a Division of Motor Vehicles; further providing for the national licensing of operators of motor vehicles on the highways; further providing that no operator's license shall be issued without the filing of proof of ability to respond in damages by insurance, bond, or deposit; further providing that nothing in the proposed act shall prevent or abridge the right of any state to provide rules or regulations for the operation of motor vehicles on the highways within the state.

This bill would provide for elaborate and expensive machinery for its administration, and it is difficult to see that it would accomplish much, if anything, more than is accomplished by the present license laws of the several states. There are now only two states, South Dakota and Wyoming, which do not have statutes providing for the licensing of automobile drivers. While the provisions of the license laws of the other states are not uniform in all details, they have the same general objectives, and serve the same general purpose. It is not clear to us that a national drivers' license law would add anything to highway safety or financial responsibility.

Three associations of automobile insurance companies have been endeavoring to agree with the American Automobile Association upon an Uniform Financial Responsibility Law. This work has been going on for several years, and will be completed during July of this year, but not in time to enable us to include any description of it in this report. Uniformity in Financial Responsibility Laws of the several states would be desirable for many reasons, and it is hoped that when a Uniform Law is promulgated, it may be favorably received and adopted in all the states.

Respectfully submitted

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Report of Life Insurance Committee

THE activities of your life insurance committee were carried on entirely by correspondence for it was not feasible to hold a formal meeting. However, the members of the committee responded promptly and suggested a wide range of topics for discussion in this report encompassing practically the entire field of life insurance law. While there was no dearth of material, the difficulty arose in selecting that which would be of general interest to a substantial part of our membership, comprising as it does trial counsel and home office counsel. The topics suggested and

selected were such that the matter of condensation within the limits of this report was not an easy task.

It was recognized by the committee that the life insurance business is in a transition period brought about by court decisions and legislation requiring major changes in policy provisions, mortality tables, interest assumptions, practices and procedures, some of which have been in general use for the last forty-six years. Ordinarily such shifts are the chief concern of home office counsel. It was gratifying to see the interest evidenced in these matters by trial counsel members of the committee, for a number of them requested a brief review of legislative activities during the past year.

So much has been said and written on the import and effect of the Southeastern Underwriters Association case, Public Law 15, and the Guertin legislation, that further discussion seems somewhat repetitious. However, the effect of this decision and the legislation takes on meaning and importance in the insurance industry, and it was felt that since forty-four of the state legislatures met this year and enacted laws affecting the insurance business, a brief resume of the important legislation is justified.

Public Law 15

On June 5, 1944, the United States Supreme Court in the case of *United States vs. Southeastern Underwriters Association,* 64 SCR 1162, held that insurance was commerce, and that the Federal Anti-trust laws were applicable to that business. Under the moratorium provisions of Public Law 15 (79th Congress, 1st Session) enacted shortly after the SEUA case the Sherman Act, the Clayton Act, the Federal Trade Commission Act and the Robinson-Patman Act will not apply to the business of insurance or the conduct thereof until after January 1, 1948 (since extended to June 30, 1948). It is now apparent that the individual states can no longer view insurance regulatory problems with a provincial eye because, in order to preserve their sovereignty and independence in the field of insurance regulation, all states will have to adopt a high standard in their insurance laws. To meet the impact of Public Law 15, an All-Industry Committee was formed which, together with the Committee of the National Association of Insurance Commissioners, drafted model bills in an effort to seek some degree of uniformity in state legislation.

Uniform Rate Regulatory Bills

Most of the activities of the Commissioners and All-Industry Committee have been directed to the enactment of uniform rate regulatory bills, which is a problem inherent in the fire and casualty field. The life companies are not directly interested in uniform rating bills, except as they may affect the over-all program proposed. The model bills for fire and casualty use consist of a casualty and surety rate regulatory bill, and a fire, marine and inland marine rate regulatory bill. At the closing of the 1947 legislative sessions, a total of forty-three states have enacted some form of rate regulatory law which in most instances conforms substantially to the model bills.

Uniform Fair Trade Practices Bills

Life insurance companies are vitally interested in the enactment of the proposed uniform fair trade practices bill for this is an innovation in the business, extending as it does the provisions of the Federal Trade Act to a state level. This model bill parallels the Federal act in its broad prohibitions against unfair methods of competition and unfair or deceptive acts or practices, but, unlike the Federal act, it contains a recital of defined acts peculiar to the insurance business. Because no such enumeration of defined act or practices could include all situations which might arise, the model bill contains an omnibus provision virtually identical with the broad language of the Federal act. The model bill empowers a State Commissioner of Insurance to issue cease and desist orders against practices falling within the enumerated prohibitions, but with respect to practices considered to be within the omnibus provision the Commissioner must petition the Attorney General to institute action. Because the Federal act does not enumerate specific unfair or deceptive practices, the act confers broad investigatory powers upon the Federal Trade Commission, which is empowered, after notice and hearing, to make findings and issue cease and desist orders based thereon. The various provisions of the model bill will undoubtedly conflict or repeat provisions already existing in the laws of many states. Accordingly, some states had to adjust their policy and their existing laws, or revise the

model bill to suit their particular situations. If this model bill can be enacted by a great majority of the states, it will go a long way toward exempting the insurance business from the jurisdiction of the Federal government and the Federal Trade Commission.

Due to the fact that there was a tendency in most jurisdictions to give the rating bills priority in order to clear that part of the All-Industry-Commissioners' program having to do with the Anti-trust laws, the Fair Trade Practices bills were enacted in only twenty-one states.* Some states are relying upon existing statutes relating to rebating and misrepresentation, but it has been suggested that such a policy tends to weaken the over-all effect of the efforts to comply with Public Law 15 because the existing anti-rebate and anti-discrimination laws do not measure up to the broad powers of the Federal Trade Commission.

Under Public Law 15 (U. S. Congress) the states had until January 1, 1948, to enact legislation in order to prevent the Federal Anti-trust laws and Trade acts from applying to the business of insurance. In the closing days of the first session of the 80th Congress, Senate Bill 1508 was introduced, extending the moratorium period until June 30th, 1948. This bill passed the Senate and House and was signed by the President on July 25, 1947. This extension allows additional time to ascertain what the states have done toward complying with Public Law 15. It seems safe to say that the states have made an honest effort to conform, and from all indications this should go a long way toward convincing Congress that a complete legislative job is forthcoming.

The problem of administration of these laws presents serious implications, for very few of the State Insurance Departments are presently equipped, nor do they presently have the appropriations to become equipped, to administer the enlarged duties and obligations inherent in these laws.

*The following states adopted legislation in 1947:

California	Minnesota	South Carolina
Florida	Nebraska	South Dakota
Indiana	New Hampshire	Tennessee
Maryland	New Jersey	Wisconsin
Michigan	New Mexico	

The following states have statutes differing from the model bill:

Colorado (anti-rebate)	North Carolina	Pennsylvania
Massachusetts	Oregon (anti-compact)	Utah
		Washington

Guertin Legislation

In a summary of current legislation, it is necessary to take into account the Standard Nonforfeiture and Valuation bills known as the Guertin legislation, the enactment of which stands very high in importance in the life insurance industry. All of the states, except Oklahoma and the District of Columbia, have now enacted the so-called Guertin law. In all but ten states the effective date of the Guertin law is mandatory on January 1, 1948. In the ten states the effective date is later or the act is permissive. The passage of the Guertin law in all states (except Oklahoma and the District of Columbia) will bring about uniformity in life insurance underwriting. Compliance with the Guertin law by January 1, 1948, is a tremendous task involving as it does the use of a new mortality table known as the Commissioners' Standard Ordinary Table, which was compiled and adopted in 1941. In most companies the shift involves changes more extensive than any made since 1900. In many cases policy contracts are being entirely rewritten and are being based upon a lower interest assumption. The task of preparing new contracts, rate schedules, endorsements and other necessary forms, and obtaining the approval of the various State Insurance Departments prior to the mandatory effective date of the act is enormous. Policy contract provisions of long standing which have been time tested and court tested will be superseded by new provisions which, no doubt, will in the future be the subject of litigation. It is felt that while it is the task of home office counsel to prepare and put in force the new forms, a great responsibility rests upon trial counsel in construing and intelligently presenting to the courts any provisions which might be attacked in the future.

Investment Laws

Of interest to many life insurance companies has been the liberalization in recent years of the investment statutes, particularly those relating to investments in income producing real estate. Prior to the 1947 legislative sessions there were twenty-two states which permitted insurance companies to invest in income producing real estate for any purpose. This year eight additional states changed their laws so as to permit such investment.

A number of states liberalized their investment laws so as to permit investment by life insurance companies in preferred stock of industrial enterprises, others authorized investment in public housing projects within certain limitations and qualifications. At least six states passed discriminatory premium tax laws after S. E. U. A. decision. See Bloys Supplement Insurance as Interstate Commerce.

Following the recent United States Supreme Court decisions upholding discriminatory premium tax laws, it was expected that some states would increase the tax rate against foreign companies. While bills were introduced in some of the 1947 legislative sessions which sought to increase the premium tax rate or give some additional financial advantage to domestic companies, none of them became law. One reason for this might be that the states were hesitant to discriminate between foreign and domestic insurers because of the effect it may have on the whole program of the industry's committees which are seeking to have the states retain their powers to regulate insurance.

Aside from the legislative situation which bulked so large in the insurance history during the past year, there were a number of interesting and novel decisions by the courts.

Military Exclusion from Double Indemnity Insurance—Effect of Acceptance of Premiums with Knowledge of Military Status

In April and May of this year, the courts of Georgia, Illinois and Ohio handed down decisions in which the basic doctrine of waiver was involved. These cases are interesting because they all involve military exclusion from double indemnity insurance and the basic problem is common to all three. It has been a well-settled and undisputed rule in insurance law that courts cannot make new contracts for the parties, yet the courts have recently been going very far in construing away exceptions. By so doing, it has resulted in extending the terms of the policy contract so as to afford coverage in instances where there is none. In the same decision a court might declare that it cannot extend the contract beyond its terms, and further on proceed to nullify the plain effect of an exception. The courts have arrived at some unusual holdings as a result of an apparent misunderstanding of insurance policies and the application thereto of basic contract principles.

Very recently two appellate courts have passed upon the effect of the acceptance of premiums for double indemnity insurance while the insured was in the military service in time of war and where the policies contained a military service exclusion clause or clauses. In these two cases, either the agent or the officials of the insurer had actual knowledge when the premiums were accepted that the insured was then in the military service. The courts held that the acceptance of the premiums with knowledge of the service status constituted a waiver of the provisions of each policy limiting or suspending the *coverage* during the continuance of the military service.

The first decision was rendered in April, 1947, by the Supreme Court of Georgia in *Harmon vs. State Mutual Insurance Co.*, 40 S. E. (2) 755. The provision of the policy in question reads:

> "3. This supplementary contract shall cease to be in force under any of the following conditions: * * * (b) If, at any time, the insured shall be under enrollment in any branch of military or naval service in time of war."

The insurer set up the defense that, at the time of the insured's accidental death, he was enrolled as a soldier in the U. S. Army in the time of war. The plaintiffs contended that the Company had *waived* the policy provision on which the defense was based by accepting a premium for the double indemnity coverage knowing that the insured had been inducted into the military service. That knowledge was acquired by an officer of the insurer through his connection with the management of the country club by which the insured was employed when inducted into service. The policy also contained the common provision that no person except certain officers had power to change, modify or waive its provision and "then only in writing." Although the Court of Appeals twice held for the defendant Company the Supreme Court held for the plaintiff. The Supreme Court stated the question presented to be:

> " * * * whether an act of the insured which *forfeits* the terms of an insurance policy is *waived* by the company collecting and retaining the premiums when an officer or agent of the company * * * had actual knowledge of the act of the

insured which created the forfeiture." (Italics supplied).

Recognizing that an express waiver was, by the terms of the policy, required to be in writing, the Court said:

"The issue is one of implied waiver which, when properly established, is as effective as an express waiver."

The Court made no reference to the well established rule that the doctrine of waiver may not be properly applied to enlarge or extend the primary undertakings of a contract. The only provision of the policy referred to in the opinion is the cessation of coverage clause which the court assumed to be a *condition* and, therefore, subject to waiver. The real issue in the case was thus not clearly determined, namely, whether the policy provision for cessation of *coverage* did not, in fact, constitute an *exception* from coverage, and was therefore not amenable to waiver as are conditions.

The second decision: On April 23, 1947, the Illinois Appellate Court, 4th District, handed down its opinion in the case of *James vs. Metropolitan Life Ins. Co.* (12 L. C. 604). In this case the court held that, because the insurer's agent was aware that the insured was in the military service but nevertheless continued to accept that part of the monthly premium specified for the double indemnity coverage, the insurer had thereby *waived* the policy's provision excluding coverage while in military service. The policy contained the following provision:

"The insurance under this supplementary Contract shall be suspended while the insured is insane, or while the insured is in Military or Naval Service in time of war, in which event that portion of the additional premium received by the Company but unearned during the period of such suspense shall be refunded."

The policy also provided that life insurance and double indemnity were to be paid only " * * * provided that death shall not have occurred while * * * the insured is in the military or naval service in time of war." The Appellate court reversed the trial judge and held for the plaintiffs. The court simply quoted 29 Am. Jur. 800-801 which said:

"In general, the doctrines of waiver and estoppel extend to practically every ground upon which an insurer may deny liability."

The court made no other comment on the Company's contention that the exclusion clause was an exception from the coverage and not a mere *condition* subject to forfeiture, and this summary dismissal was made despite the Company's citation of excellent contrary authority.

The confusion found in so many of these cases, particularly in the *James Case* and the *Harmon Case*, is due largely to a misunderstanding of the difference between *warranties, conditions,* and *exceptions.* The three must be distinguished because they affect the legal relations of the parties quite differently. (1) *A warranty* is a statement or promise set forth in the policy, or by reference incorporated therein, the untruth or nonfulfillment of which in any respect, and regardless of whether the insurer was prejudiced thereby, renders the policy voidable at the option of the insurer, irrespective of the materiality of such statement or promise. Some states by statute have delimited the effect of a warranty. (2) *A condition* is often synonymous with warranty except that a breach of condition will invalidate the contract only if both the condition and the breach are material, and also a breach of warranty must be specially pleaded and proved by the insurer. (3) *Exceptions,* such as appear in the policy contracts of the *James Case* and the *Harmon Case,* are entirely different from either a warranty or a condition. An exception is inserted in the contract for the purpose of *withdrawing* from the *coverage* of the policy, as delimited by the general language describing the risk assumed, some specific risk the insurer declares itself unwilling to undertake. Its purpose is obvious and simple. The difference between the three can be illustrated in the following way:

(1) If the policy or application contains a warranted statement that the insured is not engaged in military service, we have an undoubted *warranty;*

(2) If the policy declares that "this entire policy shall be *void* if the insured enters military service," we have a clear *condition;*

(3) If the provision is that "this Company shall not be liable for any loss while the insured is in military service" it is an exception. (or a suspension of liability).

A breach of a warranty or of a condition renders the contract defeasible at the option of the insurer; but if he so elects, he may *waive* his privilege and power to rescind by the mere expression of an intention so to do. In such cases the insurer's liability continues. But for an *excepted* loss the insurer is under no liability whatsoever. A warranty or a condition may be waived, but an exception cannot by a naked waiver be relinquished. In the case of an exception there must be a new agreement supported by a consideration. (*Bowman vs. Surety Fund Life Ins. Co.,* 149 Minn. 118, 182 N. W. 991; *Steil vs. Sun Ins. Co.,* 171 Cal. 795, 155. P. 72; *Draper vs. Oswego Co.,* 190 N. Y. 12, 82 N.E. 755; *McCoy vs. N. W. Mutual Relief Assn.,* 92 Wis. 577, 66 N. W. 697). Vance, *Cases On Insurance,* 1940, states on page 324, note 10, the following:

"Waiver is often used to describe an agreement made to change or modify some term of an existing contract, usually a condition. It is so used in sections 297 and 308 of the Restatement of the Law of Contract, American Law Institute, 1932. Such a waiver must be supported by a consideration."

In the *James Case,* and the *Harmon Case* the insurance companies defended on the ground of the policies' military exception or suspension provisions. Let us assume that, instead of the agent having merely collected the premiums or an official having constructive knowledge of the insured's induction into the armed forces, the company itself *agreed* to waive the exception. This seemingly would be a stronger case against the insurance company. In this hypothetical case, as well as in the *James Case* or the *Harmon Case,* the company never assumed any obligation to pay for the loss by reason of the excepted risk. There was no intention to "waive" any breach of *condition.* No condition was broken. The original contract remains as it always was. The contract simply did not cover this particular loss. The so-called waiver was simply a new and independent promise to pay money, unenforceable unless sealed or supported by a consideration. In *Prudential vs. Brookman,* 175 A 838 (C. of A. Maryland), the court said:

"Whatever the description of the process, it must include the ordinary essentials of a conrtact, and among them a meeting of the minds of the parties on the new undertaking."

This same decision also held:

"While there may be a waiver of a prerequisite to the performance of the insurer's undertaking, a new, extended undertaking could be brought about only by a new contract."

The insurance companies received no consideration for the insuring of the risk while the insureds were in military service. No matter how much of a premium the insureds paid while they were in military service, the contracts still contained no provision for coverage while they were in service, and no amount of premiums could have eliminated the military service exception provisions, unless there were valid agreements to that effect—and there were none.

The insurance companies in the *James Case* and the *Harmon Case* were not claiming a forfeiture, but were merely claiming that there was no coverage by virtue of the exception provisions. In this respect the court in *Ruddock vs. Detroit Life Ins. Co.,* 209 Mich. 637, 177 N. W. 242, said:

"But here the defendant (company) makes no claim of forfeiture of the contract; on the contrary, it is insisting on the contract itself, and insisting that by its terms it did not insure the deceased when engaged in military services in time of war. To apply the doctrine of estoppel and waiver here would make this contract of insurance cover a loss that it never covered by its terms, to create a liability not created by the contract and never assumed by the defendant under the terms of the policy."

In Section 763, page 1451 of Williston on Contracts, it says:

"If an insurer after a loss has taken place, for which the insurer is not liable, should promise to pay the loss, there is no consideration for the promise."

Later in this same section Mr. Williston reasons:

"Courts which define a waiver as an intentional surrender of a known right will certainly have difficulty in finding an intention on the part of the insurance company to subject itself to an obligation to pay a loss for which it is not liable,

without receiving any return. Even if such a promise were made, it would seem beyond the powers of an officer of a corporation and even beyond that of the directors to agree to give away corporate property in this way."

In the *James Case* and the *Harmon Case* the exclusion clauses and the suspension clauses were clearly exceptions. There was no valid agreement by either of the companies to pay the loss. Accordingly, it seems obvious that the exclusion provisions involved in these cases could not be waived, because they were not subject to waiver, and they were not eliminated by any agreement which lacked the essentials of a contract. Thus the doctrine of waiver was applied in instances where an exception, rather than a condition, was contained in the policy. The application of waiver in such cases is contrary to the well established rules of contracts and insurance law, which are repeated below:

29 *American Jurisprudence, Section* 903:

"The doctrine of implied waiver and of estoppel, based upon the conduct or action of the insurer are not available to bring within the coverage of a policy risks not covered by its terms, or risks expressly excluded therefrom; and the application of the doctrine in this respect is therefore to be distinguished from the waiver of or estoppel to deny grounds of forfeiture."

Carew, Shaw and Bernasconi vs. General Casualty Company, 65 Pac. (2d) 689-692 (Washington).

"One may not, by invoking the doctrine of estoppel or waiver, bring into existence a contract not made by the parties and creating a liability contrary to the express provisions of the contract the parties did make. The general rule is, while an insurer may be estopped by its conduct or its knowledge or by statute from insisting upon a forfeiture of a policy, yet, under no conditions can the coverage or restrictions on the coverage be extended by the doctrine of waiver or estoppel."

Ruddock vs. Detroit Life Insurance Company, 209 Mich. 637, 177 N. W. 242.

"The cases where the doctrine of waiver, or estoppel, has been applied, have largely been cases where the insurance companies have relied on a forfeiture of the contract, upon breaches of the warranties and conditions to work such forfeitures."

White vs. Standard Insurance Company, 22 Southern (2d) 353 (Miss.)

"The Company had the right to exempt itself from liability for military service and insured and beneficiary had the privilege of paying the dues and continue the policy in force while insured was in the military service, notwithstanding the exemption from liability for death while in such service. Payment of dues are not inconsistent with keeping the policy alive. He might have become disabled or his health become impaired, so he could not obtain insurance after leaving the service. * * * There was nothing inconsistent between the payment of premiums and the existence of the exemption."

It appears that the decisions in the James Case and the Harmon Case are in conflict with the above authorities. The effect of such use of the doctrine of waiver is to put into the policies a risk which was not intended by the parties.

The court in the *James Case* also claimed that there was a conflict between the exclusion clause and the suspension clause, and cited that oft-invoked rule that ambiguities in contracts of insurance are to be construed most strongly against the insurer and in favor of the insured. The court in *Ruddock vs. Detroit Life Ins. Co.,* supra, had the following to say about this rule:

"This rule is a salutary one, and we have no disposition to weaken its force. We should, however, be careful to guard against its misapplication. It is not applicable where it is necessary to read something into the contract that the parties have not put there in order to make it susceptible of a double construction." (page 247).

The Ohio Court of Appeals, Tucas County, handed down an opinion on May 26, 1947, in *Saba vs. Western and Southern Life.* This case is similar to the *James Case* and the *Harmon Case* except that the insurer had no knowledge of the military status when the premiums were accepted, and when such knowledge was acquired by written notification, the insurer promptly refunded the unearned premium. The

beneficiary sued for the life insurance only, contending that the refund of the premium for the accidental death benefit and the retention of the life insurance premiums estopped the insurer from limiting its liability under the military exclusion clause. The Court of Appeals disposed of this contention as follows:

> "The language of the policies is clear and unambiguous and unequivocally expresses the contract made by the parties to it. To hold otherwise is to write a new and wholly different contract for the parties. This the courts cannot do."

The fact that in this case there was no knowledge of the military status does not distinguish it from the *James Case* or the *Harmon Case* on the point we are considering, because, regardless of knowledge, an exception cannot be waived without a new agreement supported by consideration.

It seems difficult to account for the *James Case* and the *Harmon Case* decisions, but this problem of how far a court can go in construing away an exception, is an important one and it is of particular concern to the insurance companies now because of the recent war and the many existing double indemnity provisions and military service exclusions. It seems settled, however, that an insurance company cannot by a naked waiver assume a nonexistent duty, and although the courts seem willing to recognize this, they sometimes fail to properly distinguish between warranties, conditions and exceptions. It is this failure which appears to have caused the confusion we find existing in the court decisions today, and the confusion has made itself evident by the fact that the courts have in their opinions used the words "condition" and "exception" interchangeably. Although the two words can conceivably be used synonymously in certain types of situations, still they do differ in their effect and the distinction must be carefully made in cases involving a fact situation such as is found in the *James Case* and most other cases which concern military service limitations or double indemnity provisions.

Community Property

The question of "Community Property" became a live issue during the past year due no doubt to the present status of tax laws. Four state legislatures in the present session adopted the community property doctrine. These states are Pennsylvania, Michigan, Nebraska and Oregon, which brings the total of community property states to thirteen. A comparatively recent Texas case on the question of community property is of particular interest because of the reasonableness of the rule and the practical effect it has in relation to life insurance. This is the case of the *Volunteer State Life Insurance Company vs. Hardin*, decided by the Supreme Court of Texas in November, 1946 (197 S. W. (2d) 105, reversing 193 S. W. (2d) 554). The problem here considered was ably discussed by Attorney Ralph W. Malone of Dallas, Texas, before the Life Section of the American Bar Association at Atlantic City in October, 1946. However, since his discussion of the case, the Supreme Court has reversed the Intermediate Appellate Court.

In this case, Hal White Hardin claimed a share in the proceeds of two life insurance policies issued on the life of his father and payable to third parties. The ground for his claim was that community funds belonging to his father and mother had been used in paying the premiums on the policies, and that the policies were community property and, as such, Hal White Hardin, being sole heir of his mother's estate, was entitled to his mother's share of the community interest.

Briefly, the facts of the case are as follows:

Dr. Abell D. Hardin and Pearl White Hardin were married in 1912. In 1915, Dr. Hardin took out a policy on his own life and made payable to his estate, and in 1925, he took out another policy made payable to his parents. Each policy had the usual provisions authorizing the insured to change the beneficiaries and giving the insured the power to exercise all the policy rights and privileges. In 1933, the insured named his wife as primary beneficiary and his son, Hal White Hardin, as secondary beneficiary in each of the policies. The insured's wife died intestate in 1940, leaving their son as her sole heir. Up to that time, all premiums had been paid out of community property belonging to the insured and his wife. Then, in 1943, the insured named his two sisters as primary beneficiaries in both policies. There was no evidence that Dr. Hardin was insolvent or that he had been guilty of any fraud against his wife in connection with these insurance policies.

Dr. Hardin died in 1944, and, after his death, Hal White Hardin asserted a right

to share in the proceeds of the two policies to the extent of one-half of the cash surrender value of the policies as of the date of the death of his mother. On the other hand, the beneficiaries named in the policies claimed the whole amount of the proceeds of the policies. Therefore, the insurance company tendered the proceeds of the policies in court and requested the court to determine to whom they belonged. The Trial Court found that Hal White Hardin was not entitled to recover any part of the funds, and the judgment was reversed by the Court of Civil Appeals, whereupon the matter was considered by the Supreme Court of Texas.

In a well-reasoned opinion, Chief Justice Alexander points out the distinction between interests in the *cash surrender values* of the policies and the *proceeds* of policies which become payable upon the death of the insured. The Court holds that where the husband has not perpetrated a fraud on the wife, the *proceeds* of a policy vest in the named beneficiary upon the death of the insured, even though the policy was taken out by the husband during coverture and the premiums were paid out of community funds. It is also made clear that where the policy so provides, the husband may change the beneficiary at will, and the prior beneficiary, having no vested interest in the policy, lost any right to claim the proceeds upon the insured's death. It is settled that neither the wife nor her heirs have any vested interest in the *proceeds* of the policy. The Supreme Court said:

> "It follows that neither Mrs. Hardin nor the community estate acquired any vested interest in the proceeds of these policies, as distinguished from their cash surrender value, and that Dr. Hardin, the insured, had the right after the death of his wife to change the beneficiaries in the policies as authorized by the terms of the policies, and upon his death the proceeds of the policies became the exclusive property of the beneficiaries named therein at that time."

The Court went on to say:

> "Whatever right, if any, Hal White Hardin had to share in the cash surrender value of these policies existed only against his father upon a partition of the community estate. The right to demand the cash surrender value of the policies lapsed by the terms of the contract upon the death of the insured. * * *
>
> "Since the contract for insurance was lawfully made by the husband as the manager of the community estate, the community estate was not entitled to be reimbursed for the community funds lawfully used in paying the premiums on the policies. * * * Therefore Hal White Hardin as the heir to his mother's share of the community estate is not entitled to be reimbursed for any part of the funds so used."

However, the court does not pass upon the question as to whether or not the wife and, in turn, her heirs have a vested interest in the *cash surrender value* as distinguished from the *proceeds*.

The court made no decisions upon these questions:

> (1) Upon the death of the wife, can her heirs demand a division of the community property and, in so doing, claim that the *cash surrender value* of any outstanding policies (taken out during coverture and the premiums paid out of community funds) constitutes community property and that one-half of the value belongs to the deceased wife's estate?
>
> (2) If such a division is demanded, and the community estate is insolvent, can the heirs impress a lien on the proceeds of the insurance to secure payment of one-half of the surrender value?

The decision of the Supreme Court of Texas is helpful in that it will facilitate the payment of policy proceeds by not encumbering the payment with doubt about outstanding community property claims. It would have been desirable if some of the other community property states, such as California and Washington could have reached a similar conclusion.

The Kindelberger Case

Another case which caused concern to life insurance attorneys was that of *Kindelberger vs. Lincoln National Life*, 155 F. (2d) 281, decided by the United States Court of Appeals for the District of Columbia. Although Congress has now corrected the effect of the decision in the District of Columbia, the decision is still of interest because the statute under consideration was almost identical with similar

statutes of a number of other states. In this case a policy of insurance was purchased and owned by the husband and made payable to the wife, the husband reserving the right to change the beneficiary. The wife predeceased the husband and the husband made no change in the beneficiary designation. Under the terms of the policy, the proceeds were payable to the executors, administrators, or assigns of the insured. In reliance upon that policy provision, the husband's estate claimed the proceeds. Relying upon Sec. 16 of Chap. 5 of the Act of June 19, 1934 (35th Dist. of Col. Sec. 716), the beneficiary's estate likewise claimed the proceeds.

This statute provided in part as follows:

"When a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life in favor of some person other than himself * * * the lawful beneficiary * * * other than the insured or the person so effecting such insurance, *or his executors or administrators,* shall be entitled to its proceeds and avail (s) against the creditors and representatives of the insured * * * . " (Emphasis added).

The question of construction presented was the antecedent of the expression "or his executors or administrators." The court, by a divided opinion in the Kindelberger case, concluded that the antecedent of "his" was "beneficiary" and a proper reading of the statute required payment of the proceeds to the estate of the beneficiary rather than the estate of the insured. The court divided on the question of whether it was the intention of Congress that the estate of the beneficiary should be preferred to the creditors and representatives of the insured, or whether it was intended merely that a living beneficiary—one who survived to receive the proceeds—should be so protected.

The remedial legislation which has now been enacted makes plain that Congress did not intend proceeds to pass to a beneficiary who predeceased the insured. By virtue of the new legislation, the policy clause which gives the proceeds to the insured's estate where the beneficiary predeceases the insured is again effective.

A number of states having the same statute have proposed remedial legislation similar to that enacted by Congress.

Business Insurance

In recent years the use of life insurance to augment business agreements involving the sale and purchase of corporate stock or an interest in a partnership left by a decedent has greatly increased. For some years it was a common practice, in order to fund such agreement, for each partner or stockholder to take out a policy on his own life, pay the premiums and name the other parties as beneficiaries. Although this method of funding manifested certain weaknesses even from its inception, there are now under present statutes and court decisions more reasons than ever before to make a final departure from this practice.

It now appears that in the vast majority of cases, the most advantageous manner of arranging the insurance is through the so-called "cross purchase method." Under this plan, each stockholder or partner agrees to procure a separate policy of life insurance on the life of each of the other parties to the agreement. Each policy is made payable to the applicant as direct beneficiary, if living, otherwise to his personal representative. All incidents of ownership are vested in the applicant, who is also obligated by the terms of the agreement to pay premiums thereon. The reasons prompting the use of this plan are manifold.

The insurance method of providing the purchase price under the cross purchase method supplies a means of affording the survivor an advance opportunity to accumulate a reserve to meet the purchase price upon the death of the other party. Each premium payment by the applicant constitutes an advance installment on the purchase price and it logically follows that the premium payer should be the party to whose account the proceeds will be credited as purchase money. Each party, by premium payments on the policies on the lives of the other parties, builds up a fund to purchase the share of the party first to die. Under this plan, no inequality will arise because of difference in age between the parties or because one may own a larger share than the other.

For example, assume an agreement between two parties—A, age 30, and B, age 50. The premiums on the policy on the life of B will naturally be higher, but his life expectancy shorter. Therefore, although A will pay larger premiums, he

may reasonably expect to realize on his investment at an earlier date than if B were only 30 years of age. On the other hand, if each party took out a policy on his own life and paid the premiums thereon, there would necessarily have to be reimbursement in order to avoid inequality, as each party would in effect be furnishing funds to the other party to purchase the deceased party's interest. Furthermore, upon the death of one of the parties, the survivor would not only be entitled to the proceeds from the policy on the deceased partner's life, but would also retain possession of the policy on his own life, which normally would have acquired considerable cash value at that time. This result would, of course, require a complicated adjustment between the survivor and the estate of the deceased party.

There are also tax problems which bear consideration. The law, in regard to Federal estate taxes pertaining to business liquidation agreements, is none too well settled by court decisions, and for this reason it is deemed advisable to have the applicant rather than the insured named as beneficiary, pay the premiums and hold all incidents of ownership. Under present law, the decisions indicate that either the business interest to be sold or the insurance proceeds will be subject to Federal estate tax, but not both. If the insured retains no incidents of ownership and pays no premiums on policies on his own life, it is probably his stock or business interest that will be taxed at his death, and any excess of insurance will pass to the applicant tax-free. On the other hand, if the insured does hold incidents of ownership, or pays premiums on the policies on his own life, then it is the insurance proceeds that will be taxed, plus any additional amount that the purchaser may have to pay to make up the full purchase price. *Boston Safe Deposit & Trust Co., vs. Commissioner,* 30 B. T. A. 679; *Dobrzensky vs. Commissioner,* 34 B.T.A. 305; *Mitchell vs. Commissioner,* 37 B.T.A. 1; *Wilson vs. Crooks,* 52 Fed. (2d) 692; *Estate of Herbert G. Reicker,* T. C. Memo Dec. 1944 (44,397).

A problem of even greater magnitude arises under the income tax laws, under the famous *Legallet* decision, 41 B.T.A. 294. In that case, each partner took out a policy of insurance on his own life in the amount of $25,000, paid the premiums and named his own wife as beneficiary. The policies, of course, were purchased to finance the usual buy and sell agreement. One of the partners died and his wife received the $25,000 insurance proceeds, and the survivor paid an additional $30,000 in cash to make up the balance of the purchase price. Some time later, the survivor sold his interest at a profit and for income tax purposes used the sum of $55,000 as acquisition cost. This sum represented the $25,000 insurance proceeds plus the $30,000 in cash paid by the survivor. The court, however, held that $30,000 was the proper acquisition cost because the survivor had neither contributed to the purchase price by paying the premiums on the $25,000 policy on the life of the deceased party, nor had he ever acquired constructive receipt of the proceeds. This case illustrates some of the difficulties that may arise when the cross purchase plan is not employed.

Despite the fact that the most satisfactory plan calls for the designation of the applicant as beneficiary, insurance companies are often requested to endorse the policy to make the proceeds payable directly to the widow or other personal beneficiary of the decedent, thus permitting use of the option settlements. The great majority of carefully prepared business liquidation agreements proceed on the theory that the business interest to be sold is personal property and upon the death of a party, legal title to such interest vests in his personal representative. This fact, of course, subjects either the business interest of the deceased party or the purchase price to the claims of creditors, taxes and costs of administration before the personal representative is in a position to transfer the business interest to the purchaser.

Many agreements disregard this premise and attempt to by-pass the estate of the deceased and vest title to the business interest directly in the survivor and at the same time permit payment of the insurance proceeds directly to the widow of the insured. There is considerable possibility that such agreement may miscarry, because although they may be valid between the parties, they may, nevertheless, be vulnerable to the attack of creditors.

In some cases, however, it may be possible to name the wife of the insured as beneficiary in such manner that it will not do violence to the theory that the business interest subject to sale must pass through the estate of the deceased party. If the

parties desire to enter into such an agreement, the following plan has now come into use in proper cases:

A should take out insurance on the life of B and pay all premiums thereon, and all incidents of ownership should be vested in him. A should designate himself as direct beneficiary and also designate an additional direct beneficiary selected by B, the insured. The policy should be endorsed to permit temporary settlement of the insurance proceeds under the interest option for a period not to exceed one year; and such further settlement provisions as are proper should be included in the endorsement.

B should execute a will bequeathing his corporate stock or partnership interest to the same additional direct beneficiary, and providing that the rights of such legatee shall be subject to all the terms and conditions of the contract.

Immediately upon the death of B, his personal representative should proceed to probate B's estate and obtain all necessary court orders to enable him to transfer good and sufficient title to B's corporate stock or partnership interest.

Upon receipt of good and sufficient title within said year, A should thereupon apply the insurance proceeds in settlement of the purchase price by relinquishing his interest in the insurance policy and the proceeds thereof, and permitting settlement to be made directly with the additional direct beneficiary selected by B. If the value of the property to be transferred exceeds the amount of the insurance, A should pay over to the person entitled thereto such additional amount as may be necessary to pay the purchase price in full.

The period of one year, during which the insurance proceeds may be held under the interest option, is intended to allow time for the personal representative and the legatee under the will to complete the necessary probate proceedings. If the transfer is not made and the purchase price paid within said period of one year, the insurance proceeds are to be paid in a lump sum directly to A as direct beneficiary; and the option settlements will no longer be available to the additional direct beneficiary.

Abandoned Property Law

A matter which may prove of concern to life insurance companies is the effort of some states to seize as abandoned property monies held or owing by insurance companies under policies where the monies have remained uncalimed for a specified number of years. For example, the New York statutes treat as abandoned property monies held or owing by any life insurance corporation under policies issued on the lives of New York residents which have remained unclaimed for seven years. The statute applies not only to policies issued by domestic insurance companies, but also to foreign corporations authorized to do insurance business in New York. The Comptroller had ruled that a policy fell within the statute if the insured was a resident of the state at the time the contract was made. In the recent case of *Connecticut Mutual Life Insurance Co., et al. vs. Moore,* 65 N.Y.S. (2d) 143, five foreign insurance companies licensed to do business in New York attacked the constitutionality of the statute in a suit seeking a declaratory judgment and an injunction against attempts by the Comptroller to enforce the statute against them. The court held that the statute is constitutional as applied to policies written or delivered in the state by domestic agencies or foreign corporations but that it was unconstitutional as applied to policies on the lives of New York residents written outside the state by foreign branches of foreign insurance companies.

No federal constitutional question would be involved if the statute were limited to policies written in one state by a domestic company where both the insured and the beneficiary resided in that state. Similar statutes for the appropriation of unclaimed bank deposits have been held constitutional. *Provident Institution for Savings vs. Malone,* 221 U. S. 660, *Security Savings Bank vs. California,* 263 U. S. 282. Where a foreign insurance corporation authorized to do business in any state is involved, it may be necessary to invoke the due process clause of the fourteenth amendment to prevent the company from being required to pay the amount of the claim to more than one state. For that purpose it is necessary to determine the situs of the claim. The New York court decided that the situs of the claim was the state where the insured resided provided the contract was also made in that state.

It claimed to be applying "a common sense appraisal of the requirements of justice and convenience" in ruling out the state where the insurance company was incorporated as well as that of the domicile of the beneficiary.

If a claim for such proceeds is to be given a fictional situs for the purpose of abandoned property appropriation leaving all other states without jurisdiction, it would seem that the only practical situs is the home state of the insurance company. The domicile of the beneficiary would, of course, be the most appropriate situs since that is the domicile of the real owner of the abandoned property, but since his residence as well as the last residence of the insured is unknown, it would seem that the only practical rule is to place the situs in the home state of the insurance company. The cases involving unclaimed bank deposits have unanimously disregarded the unlocated creditor's domicile.

Under the Pennsylvania statute (Pa. Stat. Ann. Purdon Supp. 1946, Tit. 27, Secs. 435, 436 (a) (3), 441) every domestic company is required to report on the proceeds of every policy unclaimed for seven or more years and such monies may be escheated to the state on proceedings in the name of the Attorney General. It is manifest that both New York and Pennsylvania may well claim jurisdiction and each require a payment to it of the face value of the policy. Such a result would be manifestly so unfair as to constitute a denial of due process. A decision of the Supreme Court of the United States will apparently be necessary to resolve the conflicting claims of jurisdiction.

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Drake, Hervey J., New York, N. Y.
Drewry, W. Shepherd, Richmond, Va.
Dunn, Evans, Birmingham, Ala.
Eager, Pat H., Jr., Jackson, Miss.
Eggenberger, William J., Detroit, Mich.
Ely, Wayne, St. Louis, Mo.
Evans, Walter G., New York, N. Y.
Evans, William W., Sr., Paterson, N. J.
Faude, John P., Hartford, Conn.
Field, Elias, Boston, Mass.
Fields, Ernest W., New York, N. Y.
Fitzhugh, Millsaps, Memphis, Tenn.
Fitzpatrick, William F., Syracuse, N. Y.
Flynn, James F., Sandusky, Ohio.
Foley, Gerald T., Newark, N. J.
Foster, John E., Columbus, Ohio.
Francis, Marshall H., Steubenville, Ohio.
Gallagher, Donald, Albany, N. Y.
Gambrell, E. Smythe, Atlanta, Ga.
Gardere, George P., Dallas, Texas.
Geer, Arthur B., Minneapolis, Minn.
Gongwer, G. P., Ashland, Ohio.
Gongwer, J. H., Mansfield, Ohio.
Gooch, J. A., Ft. Worth, Texas.
Gorton, Victor C., Chicago, Ill.
Gover, Charles H., Charlotte, N. C.
Gray, Harry T., Jacksonville, Fla.
Gresham, Newton, Houston, Texas.
Grissom, Pinkney, Dallas, Texas.
Groetzinger, Walker, Philadelphia, Pa.
Grooms, Hobart H., Birmingham, Ala.
Gross, Daniel J., Omaha, Neb.
Grubb, Kenneth, Milwaukee, Wis.
Hannah, Richards Wesley, New York, N. Y.
Harvey, Thomas P., Hartford, Conn.
Haynes, David C., Youngstown, Ohio.
Head, Walton O., Dallas, Texas.
Heneghan, George E., St. Louis, Mo.
Henry, John A., Chicago, Ill.
Heyl, Clarence W., Peoria, Ill.
Hinshaw, Joseph H., Chicago, Ill.
Hobson, Robert P., Louisville, Ky.
Hocker, Lon O., Jr., St. Louis, Mo.
Hoffstot, H. W., Jr., Kansas City, Mo.
Horn, Clinton M., Cleveland, Ohio.
Howard, Frank, Worcester, Mass.
Hughes, John H., Syracuse, N. Y.
Irvine, John E., Steubenville, Ohio.
Jainsen, Wilson C., Hartford, Conn.
Johnson, E. M., Lumberton, N. C.
Kelly, Ambrose B., Providence, R. I.
Kelly, F. H., New York, N. Y.
Kelly, William A., Akron, Ohio.
Kemper, W. L., Houston, Texas.
King, Bert, Wichita Falls, Texas.
Kitch, John R., Chicago, Ill.
Kluwin, John A., Milwaukee, Wis.
Knight, Harry S., Sunbury, Pa.
Korsan, Peter J., Philadelphia, Pa.
Kramer, Donald W., Binghamton, N. Y.
Kristeller, Lionel P., Newark, N. J.
Kuhn, Edward W., Memphis, Tenn.
LaBrum, J. Harry, Philadelphia, Pa.
Lacey, Robert B., Detroit, Mich.
Lancaster, J. L., Jr., Dallas, Texas.
Lazonby, J. Lance, Gainesville, Fla.
Liddon, Walker, Ft. Pierce, Fla.
Lloyd, Frank T., Camden, N. J.
Lloyd, Duncan, Chicago, Ill.
Locke, L. J., Chicago, Ill.
Long, Lawrence A., Denver, Colo.
Lord, John S., Chicago, Ill.
Lucas, Wilder, St. Louis, Mo.
Luce, Robert T., Chicago, Ill.
McAlister, David I., Washington, Pa.
McCamey, Harold E., Pittsburgh, Pa.
McDonald, W. Percy, Memphis, Tenn.
McGinn, Denis, Escanaba, Mich.
McGough, Paul J., Minneapolis, Minn.
McGugin, Dan, Nashville, Tenn.
McInerney, Wilbert, Washington, D. C.
McKelvy, W. R., Seattle, Wash.
McKennett, Fred A., Newark, N. J.
McLoughlan, James J., New York, N. Y.
McNamara, J. Paul, Columbus, Ohio.
McNeal, Harley J., Cleveland, Ohio.
Mangin, William B., Syracuse, N. Y.
Manier, Miller, Nashville, Tenn.
Mansfield, Walter A., Detroit, Mich.
Marcus, David C., Beaumont, Texas.
Marriner, Rufus S., Washington, Pa.
Marryott, Franklin J., Boston, Mass.
Martin, John B., Philadelphia, Pa.
Martin, William F., New York, N. Y.
Matthews, Douglas W., Atlanta, Ga.
May, John G., Jr., Richmond, Va.
May, Philip S., Jacksonville, Fla.
Mayne, Walter R., St. Louis, Mo.
Mehaffy, James W., Houston, Texas.
Miller, Oliver H., Des Moines, Iowa.
Miller, Orrin, Dallas, Texas.

Moeller, Frederick A., Boston, Mass.
Montgomery, Richard B., Jr., New Orleans, La.
Moody, Denman, Houston, Texas.
Moore, Alvin O., Chattanooga, Tenn.
Morris, Stanley C., Charleston, W. Va.
Moser, Henry S., Chicago, Ill.
Moul, Charles E., Leroy, Ohio.
Mount, Thomas F., Philadelphia, Pa.
Mungall, Daniel, Philadelphia, Pa.
Murphy, Joseph H., Syracuse, N. Y.
Musgrave, Edgar, Des Moines, Iowa.
Nelson, Robert M., Memphis, Tenn.
Nichols, Henry W., New York, N. Y.
Niehaus, John M., New York, N. Y.
Nigh, Warren, Washington, D. C.
Noll, Robert M., Marietta, Ohio.
O'Hara, James M., Rome, N. Y.
O'Kelley, A. Frank, Tallahassee, Fla.
O'Malley, Thomas J., New York, N. Y.
Orr, George W., New York, N. Y.
Parker, Alexander W., Richmond, Va.
Pearce, Theodore, S., Philadelphia, Pa.
Pickrel, William G., Dayton, Ohio.
Pledger, Charles E., Jr., Washington, D. C.
Popper, Joseph W., Macon, Ga.
Porteous, William A., Jr., New Orleans, La.
Powell, Arthur G., Atlanta, Ga.
Priest, Myrl, St. Paul, Minn.
Proctor, Charles W., Worcester, Mass.
Raley, Donald W., Canton, Ohio.
Randall, John D., Cedar Rapids, Iowa.
Rankin, James King, Atlanta, Ga.
Raub, Edward B., Jr., Indianapolis, Ind.
Reed, Peter, Cleveland, Ohio.
Reyonlds, Hugh E., Indianapolis, Ind.
Roberts, E. A., Philadelphia, Pa.
Roberts, Melvin M., Cleveland, Ohio.
Rode, Alfred, Seattle, Wash.
Rogoski, Alexis J., Muskegon, Mich.
Rollins, H. Beale, Baltimore, Md.
Rowe, Royce G., Chicago, Ill.
Royster, John H., Peoria, Ill.
Ryan, Lewis C., Syracuse, N. Y.
Sadler, W. H., Jr., Birmingham, Ala.
Schisler, J. Harry, Baltimore, Md.
Schlipf, Albert C., Springfield, Ill.
Schlotthauer, George McD., Madison, Wis.
Schneider, Philip J., Cincinnati, Ohio.
Schultz, Peter A., Buffalo, N. Y.
Scroggie, Lee J., Detroit, Mich.
Shackleford, R. W., Tampa, Fla.
Shannon, George T., Tampa, Fla.
Shapiro, Joseph G., Bridgeport, Conn.
Slaton, John M., Atlanta, Ga.
Smith, Forrest S., Jersey City, N. J.
Smith, P. Eugene, Dayton, Ohio.
Smith, William P., Chicago, Ill.
Smith, Willis, Raleigh, N. C.
Smithson, Spurgeon L., Kansas City, Mo.
Spray, Joseph A., Los Angeles, Calif.
Sprinkle, Paul C., Kansas City, Mo.
Stephens, Oscar A., Youngstown, Ohio.
Stewart, Don W., Lincoln, Neb.
Stewart, Jack, Lincoln, Neb.
Stewart, Joseph R., Kansas City, Mo.
Stichter, Wayne E., Toledo, Ohio.
Stoudt, James, Reading, Pa.
Stratton, Hubert C., Syracuse, N. Y.
Strite, Edwin E., Sr., Chambersburg, Pa.
Sullivan, George S., Syracuse, N. Y.
Swanstrom, Gerald M., Milwaukee, Wis.
Taylor, Edward I., Hartford, Conn.
Terry, William H., Jr., Memphis, Tenn.
Thompson, Grover C., Lexington, Ky.
Thornbury, P. L., Columbus, Ohio.
Topping, Price H., New York, N. Y.
Touchstone, O. O., Dallas, Texas.
Townsend, Mark, Jr., Jersey City, N. J.
Van Orman, Francis, Short Hills, N. J.
Van Orman, Wayne, New York, N. Y.
Wagner, Richard C., New York, N. Y.
Walker, Howard C., Akron, Ohio.
Wassell, Thomas W., Dallas, Texas.
Watters, Thomas, Jr., New York City.
Webb, Robert L., Topeka, Kans.
Weech, C. Sewell, Baltimore, Md.
Weichelt, George M., Chicago, Ill.
Weiss, Stuart Paul, New Orleans, La.
Werner, Victor Davis, New York, N. Y.
Weston, S. Burns, Cleveland, Ohio.
Whaley, Vilas H., Racine, Wis.
White, Harvey E., Sr., Norfolk, Va.
White, Lowell, Denver, Colo.
Williams, Ira Jewell, Philadelphia, Pa.
Woodward, Ernest, Louisville, Ky.
Yancey, George W., Birmingham, Ala.
Young, Frank M., Birmingham, Ala.
Young, Robert F., Dayton, Ohio.
Zurrett, Melvin H., Rochester, N. Y.

Guests' Registration—1947 Convention

Adams, Mrs. St. Clair, Jr., (Lilla), New Orleans, La.
Altick, Mrs. H. H. (Dorothy), Dayton, Ohio.
Anderson, Mrs. Henry L. (Dorothy), Fayetteville, N. C.
Andrews, Mrs. John D. (Marie), Hamilton, Ohio.

Baier, Mrs. Milton L. (Madonna), Buffalo, N. Y.
Baker, Mrs. Sam Rice (Mary Lou), Montgomery, Ala.
Ball, Mrs. Fred S., Jr. (Caroline), Montgomery, Ala.
Baylor, Mrs. F. B. (Georgia), Lincoln, Neb.
BeGole, Mrs. Ari M. (Helen), Detroit, Mich.
Bennethum, Mrs. William H. (Anne), Wilmington, Del.
Benoy, Mrs. Wilbur E. (Vera), Columbus, Ohio.
Benoy, Wilbur Halden, Columbus, Ohio.
Betts, Mrs. Forrest A. (Velle), Los Angeles, Calif.
Blair, Mrs. James T. (Emilie), Jefferson City, Mo.
Blanchet, Mrs. G. Arthur (Lucille), New York, N. Y.
Borgelt, Mrs. E. H. (Frances), Milwaukee, Wis.
Brandt, Mrs. Betty C., Detroit, Mich.
Brown, Mrs. Oscar J. (Mary), Syracuse, N. Y.
Brown, Mrs. William R. (Ruth), Houston, Texas.
Buchanan, Mrs. G. Cameron (Helen), Detroit, Mich.
Buchanan, Mrs. William D. (Bette), Detroit, Mich.
Buck, Mrs. Henry W. (Nina), Kansas City, Mo.
Burke, Mrs. Patrick F. (Mary), Philadelphia, Pa.
Burns, Mrs. George (Marjorie), Rochester, N. Y.
Campbell, Mrs. William T. (Helen), Philadelphia, Pa.
Carey, Mrs. L. J. (Lena), Detroit, Mich.
Carrington, Mrs. Edward C. (Lucille), Beaumont, Texas.
Casey, T. J.
Caverly, Mrs. Raymond N. (Rene), New York, N. Y.
Cecil, Mrs. Lamar (Mary), Beaumont, Texas.
Chilcote, Mrs. Sanford M. (Mildred), Pittsburgh, Pa.
Christovich, Mrs. Alvin R. (Elyria), New Orleans, La.
Cobourn, Mrs. Frank M. (Marguerite), Toledo, Ohio.
Cobourn, Miss Marcia, Toledo, Ohio.
Cobourn, Richard H., Toledo, Ohio.
Coleman, Mrs. Fletcher B. (Frances) Bloomington, Ill.
Collins, Ed, Chicago, Ill.
Collins, Charles.
Conroy, Mrs. Francis P. (Geraldine), Jacksonville, Fla.
Cooke, Mrs. Arthur O. (Ruth), Greensboro, N. C.
Cooke, Arthur O., Greensboro, N. C.
Cope, Mrs. Kenneth B. (Lela), Canton, Ohio.
Cope, Leland, Canton, Ohio.
Craugh, Mrs. Joseph P. (Lucille), Utica, N. Y.
Crownover, Mrs. Arthur, Jr. (Augusta), Nashville, Tenn.
Daniel, Mrs. Todd, Philadelphia, Pa.
Deak, Mrs. William S. (Grace), Reading, Pa.
Deak, William S., Reading, Pa.
Dempsey, Mrs. James, Peekskill, N. Y.
Dickie, Mrs. J. Roy (Mabel), Pittsburgh, Pa.
Diehm, Mrs. Ellis R. (Helen), Cleveland, Ohio.
Dimond, Mrs. Herbert F. (Helen), New York, N. Y.
Dineen, Robert E., New York, N. Y.
Dodd, Mrs. Lester P. (Edith), Detroit, Mich.
Don Carlos, Mrs. Harlan S. (Mary), Hartford, Conn.
Donovan, Mrs. James B. (Mary), New York, N. Y.
Dopp, Gordon L., Washington, D. C.
Doust, James R., Newark, N. J.
Drewry, Mrs. W. Shepherd (Ann Amelia), Richmond, Va.
Eager, Mrs. Pat H., Jr. (Ann), Jackson, Miss.
Eggenberger, Mrs. William J. (Elsie), Detroit, Mich.
Eggenberger, Miss Barbara, Detroit, Mich.
Evans, William W., Jr., Paterson, N. J.
Field, Mrs. Elias (Margaret), Boston, Mass.
Fields, Mrs. Ernest W. (Muriel), New York, N. Y.
Fitzhugh, Mrs. Millsaps (Sallie), Memphis, Tenn.
Fitzpatrick, Mrs. William F. (Margaret), Syracuse, N. Y.
Fluty, W. Holly, Hartford, Conn.
Foley, Mrs. Gerald T. (Ann), Newark, N. J.
Francis, Mrs. Marshall H. (Pauline), Steubenville, Ohio.
Gallagher, Mrs. Donald (Rosemary), Albany, N. Y.
Geer, Mrs. Arthur B. (Marie), Minneapolis, Minn.

Gongwer, Mrs. G. P. (Alice), Ashland, Ohio.

Gongwer, Mrs. J. H. (Gladys), Mansfield, Ohio.

Gooch, Mrs. J. A. (Adrienne), Ft. Worth, Texas.

Gover, Mrs. Charles H. (Mary), Charlotte, N. C.

Gray, Mrs. Harry T. (Mary), Jacksonville, Fla.

Gresham, Mrs. Newton (Mary Frances), Houston, Texas.

Gross, Mrs. Daniel J. (Louise), Omaha, Neb.

Haynes, Mrs. David C. (Edna), Youngstown, Ohio.

Head, Joseph, Philadelphia, Pa.

Hinshaw, Mrs. Joseph H. (Madeline), Chicago, Ill.

Hocker, Mrs. Lon O., Jr. (Esther), St. Louis, Mo.

Hoffstot, Mrs. H. W. (Sue), Kansas City, Mo.

Horn, Mrs. Clinton M. (Mabel R.), Cleveland, Ohio.

Howard, Mrs. Frank (Gladys), Worcester, Mass.

Hughes, Mrs. John H. (Mary), Syracuse, N. Y.

Irvine, Mrs. John E. (Betty), Steubenville, Ohio.

Jones, Louis M., New Orleans, La.

Jones, Mrs. Louis M. (Valerie), New Orleans, La.

Kemper, Mrs. W. L. (Lois), Houston, Texas.

King, Mrs. Bert (Cressie), Wichita Falls, Texas.

Kitch, Mrs. John R. (Mary), Chicago, Ill.

Kluwin, Mrs. John A. (Noreta), Milwaukee, Wis.

Knight, Fred S., New York, N. Y.

Knight, Mrs. Fred S. (Elsie), New York, N. Y.

Knight, Mrs. Harry S. (Elsie), Sunbury, Pa.

Kramer, Philip, Binghamton, N. Y.

Kristeller, Mrs. Lionel P. (Helen), Newark, N. J.

LaBrum, Mrs. J. Harry (Catharine), Philadelphia, Pa.

Lacey, Mrs. Robert B. (Belva), Detroit, Mich.

Lancaster, Mrs. J. L., Jr. (Loretta), Dallas, Texas.

Liddon, Mrs. Walker (Edna), Ft. Pearce, Fla.

Lloyd, Mrs. L. Duncan (Olivia), Chicago, Ill.

Lloyd, Kay, Miss, Chicago, Ill.

Lloyd, Virginia, Miss, Chicago, Ill.

Long, Lawrence A., Mrs. (Elizabeth), Denver, Colo.

Lucas, Mrs. Wilder (Ruth), St. Louis, Mo.

Luce, Mrs. Robert T. (Josephine), Chicago, Ill.

Luce, Miss Catherine, Chicago, Ill.

McCamey, Mrs. Harold E. (Ethel), Pittsburgh, Pa.

McCormack, C. B.

McGough, Mrs. Paul J. (Alice), Minneapolis, Minn.

McGough, Miss Patsy, Minneapolis, Minn.

McGough, Miss Mary Alice, Minneapolis, Minn.

McInerney, Mrs. Wilbert (Rosa), Washington, D. C.

McKelvy, Mrs. W. R. (Jane), Seattle, Wash.

McKennett, Mrs. Fred A. (Lillian), Newark, N. J.

McNamara, Mrs. J. Paul (Mary), Columbus, Ohio.

McNeal, Mrs. Harley J. (Virginia), Cleveland, Ohio.

McNeal, Miss Sandra, Cleveland, Ohio.

McNeal, Miss Virginia, Cleveland, Ohio.

Mangin, Mrs. William B. (Clara), Syracuse, N. Y.

Marryott, Mrs. Franklin J. (Stephanie), Boston, Mass.

Martin, Joseph.

Martin, Mrs. William F. (Cay), New York, N. Y.

May, Mrs. Philip S. (Lillian), Jacksonville, Fla.

Mayne, Mrs. Walter R. (Helene), St. Louis, Mo.

Mayne, Miss Margaret, St. Louis, Mo.

Mehaffy, Mrs. James W. (Mary Alice), Houston, Texas.

Miller, Mrs. Orrin (Margaret Alice), Dallas, Texas.

Moeller, Mrs. Frederick A. (Isabel), Boston, Mass.

Moody, Mrs. Denman (Ted), Houston, Texas.

Morris, Mrs. Stanley C. (Leota), Charleston, W. Va.

Mungall, Mrs. Daniel (Alice), Philadelphia, Pa.

Murphy, Mrs. Joseph H. (Helen), Syracuse, N. Y.

Nelson, Mrs. Robert M. (Marjorie), Memphis, Tenn.
Nichols, Mrs. Henry W. (Bert), New York, N. Y.
Nixon, David S., Hartford, Conn.
O'Kelley, Mrs. A. Frank (Louise), Tallahassee, Fla.
Orr, Alexander, Jr., New York, N. Y.
Orr, Mrs. Alexander, Jr. (Lois), New York, N. Y.
Oster, L. J. ,Utica, N. Y.
Owens, Don, Memphis, Tenn.
Peace, William H., Philadelphia, Pa.
Pickrel, Mrs. William G. (Margaret), Dayton, Ohio.
Plaine, Herzel H. E., Washintgon, D. C.
Popper, Mrs. Joseph W. (Marjorie), Macon, Ga.
Porteous, Mrs. William A., Jr. (Lois), New Orleans, La.
Powell, Mrs. Arthur G. (Annie), Atlanta, Ga.
Priest, Mrs. Myrl (Ruby), St. Paul, Minn.
Raley, Mrs. Don W. (Helen), Canton, Ohio.
Rankin, Mrs. James K. (Margaret), Atlanta, Ga.
Reeder, Herman W., Columbus, Ohio.
Roberts, Mrs. E. A. (Adair), Philadelphia, Pa.
Rode, Mrs. Alfred (Cora), Seattle, Wash.
Rode, Miss Helen, Seattle, Wash.
Rollins, Mrs. H. Beale (Mary E.), Baltimore, Md.
Royster, Mrs. John H. (Helen), Peoria, Ill.
Schlotthauer, Mrs. George McD. (Betty), Madison, Wis.
Schuenemann, A. P., Jr., Philadelphia, Pa.
Scroggie, Mrs. Lee J. (Gertrude), Detroit, Mich.
Shackleford, Mrs. R. W. (Iva), Tampa, Fla.
Shannon, Mrs. George T. (Tommye), Tampa, Fla.
Shapiro, Mrs. Joseph G. (Helen), Bridgeport, Conn.
Smith, Mrs. Forrest S. (Harriet), Jersey City, N. J.
Smith, Mrs. P. Eugene (Angela), Dayton, Ohio.
Smith, Mrs. William P. (Elizabeth), Chicago, Ill.
Spray, Mrs. Joseph A. (Loeta), Los Angeles, Calif.
Sprinkle, Mrs. Paul C. (Mary), Kansas City, Mo.
Stalker, Mr.
Stalker, Mrs.
Stephens, Mrs. Oscar A. (Alice), Youngstown, Ohio.
Stewart, Mrs. Don W. (Laura), Lincoln, Neb.
Stewart, Mrs. Jack (Josephine), Lincoln, Neb.
Stewart, Mrs. Joseph R. (Edna), Kansas City, Mo.
Stichter, Mrs. Wayne E. (Irene), Toledo, Ohio.
Stoddart, John, Springfield, Ill.
Stratton, Mrs. Hubert C. (Margaret), Syracuse, N. Y.
Strite, Edwin D., Jr., Chambersburg, Pa.
Strite, Mrs. Edwin D., Jr. (Nancy), Chambersburg, Pa.
Swanstrom, Mrs. Gerald M. (Zella), Milwaukee, Wis.
Thompson, Mrs. Grover C. (Virginia), Lexington, Ky.
Thwing, James R., New York, N. Y.
Topping, Mrs. Price (Barbara), New York, N. Y.
Touchstone, Mrs. O. O., Dallas, Texas.
Townsend, Mark III, Jersey City, N. J.
Tucker, Charles T., Washington, D. C.
Ulman, John, Akron, Ohio.
Van Orman, Mrs. Wayne (Jean), New York, N. Y.
Walker, W. A.
Walker, Mrs. W. A.
Walsh, William G., New York, N. Y.
Webb, Mrs. Robert L. (Ruth), Topeka, Kans.
Webb, Tom, Topeka, Kans.
Werner, Mrs. Victor Davis (June), New York, N. Y.
Whaley, Mrs. Vilas H. (Mary), Racine, Wis.
White, Harvey E., Jr., Norfolk, Va.
White, Mrs. Harvey E., Sr. (Mabel), Norfolk, Va.
White, William H., Norfolk, Va.
White, Mrs. Lowell (Laura Louise), Denver, Colo.
White, Edger, Denver, Colo.
White, Thomas Raeburn, Jr., Philadelphia, Pa.
Wise, W. B., New York, N. Y.
Wise, Mrs. W. B. (Grace), New York, N. Y.
Wise, Miss Betty, New York, N. Y.
Woehl, Miss Fannie, Buffalo, N. Y.
Woodward, Mrs. Ernest (Allie), Louisville, Ky.
Young, Mrs. Robert F. (Kathryn), Dayton, Ohio.